

The Gazette of India



EXTRAORDINARY

PART II—Section 3

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No. 138] NEW DELHI, MONDAY, JUNE 1, 1953

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 21st May, 1953

S.R.O. 1027.—WHEREAS the election of Shri N. Paramasivan of Edacheruvai village and Shri Kattimuthu of Seppakam Village, Vriddachalam Taluq, as members of the Legislative Assembly of the State of Madras from the Vriddachalam constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri K. Narayanasami Pillai of Vriddachalam Town;

AND WHEREAS, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

NOW, THEREFORE, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, TIRUCHIRAPPALLI

[In the matter of the petition presented by Sri K. Narayanaswami Pillai questioning the election of Sri N. Paramasivam (General Seat) and Sri Kattimuthu (Reserved Seat) as members of the Madras State Legislative Assembly from the Vriddachalam Constituency of South Arcot District]

PRESENT:

Sri H. Ananthanarayana Ayyar, I.C.S.—*Chairman*,

AND

Sri L. S. Parthasarathy Ayyar,

Sri V. C. Viraraghavan.—*Members*.

Monday, the 27th day of April 1953

ELECTION PETITION No. 264 of 1952

BETWEEN

K. Narayanaswami Pillai son of N. Krishnaswami Pillai resident of Vriddachalam Town.—*Petitioner*.

AND

1. N. Paramasivam son of Narayana Padayachi residing at Edacheruvai village, Vriddachalam Taluq.
2. Kadirvelu Padayachi residing in Sirumulai, Vriddachalam Taluq.

(1791)

3. C. Krishnaswami Rao, son of Chakrapani Rao residing at Kasba Virddachalam.
4. Suthari Sahib residing at Killai, Chidambaram Taluq.
5. Kattimuthu son of Thalayari Mari residing at Seppakam Village, Vriddachalam Taluq.
6. Krishnan residing at Vasishtapuram Cheri, Vriddachalam Taluq.
7. Lakshmanan residing at Kasba Cheri, Vriddachalam Taluq.
8. Vedamanickam residing at Puduppatti, Vriddachalam Taluq.
9. Sallamuthu residing at Serumangalam, Vriddachalam Taluq—Respondents.

This election petition coming on for hearing on the 28th, 29th, 30th and 31st days of January 1953 and on the 2nd, 3rd, 4th, 5th, 9th, 10th, 16th, 17th, 25th, 26th, 27th and 28th days of February 1953, on the 5th, 6th, 7th, 9th and 10th days of March 1953 and on the 6th, 7th, 8th, 10th, 14th, 15th and 16th days of April 1953 in the presence of Sri V. Jayarama Ayyar, Sri R. Subramania Ayyar and Sri V. Balasubramaniam, Advocates and Sri K. Rangasami Pillai and K. Srinivasa Sarma, pleaders for the petitioner, of Sri G. M. Vriddachalam, advocate for 1st respondent, of Sri G. Balasundaram, advocate for the 5th respondent and respondents 2, 7 and 8 who appeared in person and filed written statements being subsequently absent and respondents 3, 4, 6 and 9 not appearing either in person or by pleader and the petition having stood over to this day for consideration the Tribunal passed the following:—

ORDER

On 2nd January 1952, an election was held to the Madras Legislative Assembly from the Vriddachalam Constituency in South Arcot District. Petitioner Narayanasami Pillai, the 1st respondent, Paramasivam, as well as respondents 2, 3 and 4 contested the general seat. Of these the petitioner was standing on the Congress ticket and the 1st respondent on the T.N.T. Party ticket. The others were Independent candidates. Kattimuthu (5th respondent) as well as the respondents 6 to 9 were duly nominated for the Reserved Seat. The 9th respondent withdrew. The 5th respondent was standing on the T.N.T. party ticket and the 8th respondent stood on the Congress ticket. The others were Independent candidates. The votes secured by the candidates relevant for the purpose of this petition are as follows:—

1st respondent.	30302.
Petitioner.	29004.
5th respondent.	24880.
8th respondent.	22800.

(NOTE.—The other candidates got votes which were less than 7,000 each). The petitioner feels aggrieved with the election. So, he has filed this petition asking for the following reliefs:—

- (i) to declare the election as a whole to be void;
- (ii) to declare the election of the 1st respondent as void;
- (iii) to declare the petitioner to have been duly elected or order fresh election.

2. The main contentions in the petition are as follows:—

The vannias in the electoral area are a well organised community and had a communal organisation called Vanniakula Kshatriya Sangam, with branches throughout the constituency. It also bore the names of Dravida Kazhagam, Dravida Munnetra Kazhagam, etc. It has openly avowed communal aims and antagonism). The T.N.T. Party (under whose auspices the 1st respondent stood) is nothing but the V. K. Sangam. The new name was taken by the Sangam to create seeming conformity with the rules issued by the Government that election should not be held on communal basis. It exploited communal affinities by means of propaganda, conferences, public meetings and through the Tamil weekly called "Kshatriyan".

3. The vannias misled the Harijans by telling them that the Congress was not really caring for their uplift and also intimidated and coerced the Harijans into voting for the 1st respondent, by saying that otherwise the facilities enjoyed by them (Harijans) in the matter of cultivation would be withdrawn by the Vannias. So the election was not free and fair.

4. The corrupt practices of bribery and undue influence extensively prevailed in the election. In several villages, the Harijans were given cash and in some places, treated with Kanji, tea, coffee, meals, etc. In some villages, Harijan and Vannia voters were taken in hired cars etc., to polling booths by the 1st respondent and his agents.

5. False personation was resorted to by the 1st respondent and his agents at Chinnavadavadi Polling Station and Athamangalam polling station. Some leaflets issued on behalf of the 1st respondent offended the rule regarding mention of printer and publisher. There was propaganda on behalf of the 1st respondent that Congress and the petitioner were public enemies and that no one should vote for the petitioner. In the propaganda, there was a promise to repeal prohibition.

6. Polling booths were not opened in several places at the appointed hour. No compensatory time was allowed as required under the rules, in spite of protest by the petitioner and his agents. Thus lots of voters were not allowed to vote. The result of the election was materially affected. In some polling booths, Parliamentary ballot boxes were placed in the Assembly booths and *vice versa*. The voters were consequently perplexed and puzzled (there were 9 boxes for the Assembly booth and 6 for the Parliamentary booth) and so people began to vote pell-mell. Parliamentary ballot papers were issued in place of Assembly ballot papers and *vice versa* in some places. Government village Officers took active part before and during the election by canvassing for the 1st respondent, at the instance of the 1st respondent and his agents.

7. Irregularities were committed in counting.

8. The return of election expenses furnished by the 1st respondent to the Returning Officer is not exhaustive. There is suppression in it of many items of expenses incurred, one of them being money spent on purchase of 44 gallons of petrol for the various cars for election purposes on 1st January 1952 and 2nd January 1952.

9. Respondents 1 and 5 worked together in the election. The 5th respondent was Government Talayari of Seppakkam village and at the instance of the 1st respondent, made a fraudulent transfer of his Isum right (in the post of talayari) to his brother Athimoolam in return for an annuity.

10. The petition contains full details and many schedules which are referred to in the discussion of the evidence.

11. Respondents 3, 4, 6 and 9 remained *ex parte*. The 1st respondent filed written statement contesting the petition. The 5th respondent filed a counter supporting the 1st respondent. Respondents 2, 7 and 8 filed separate counters supporting the contentions of the petitioner. But they did not take part in the further proceedings. Respondents 1 and 5 took part in the proceedings through lawyers and let in evidence.

12. The contentions of the 1st respondent in his written statement are briefly as follows:—The petition as framed is not maintainable as it asks for all the reliefs mentioned in Section 84. There were no corrupt practices of bribery, treating or conveyance of voters by the 1st respondents or his agents. Neither the 1st respondent nor his agents had anything to do with false personation. The 1st respondent had taken every care and all steps in his power to see that no election rule was violated or any corrupt practice committed. The vannias are not the bulk of the population in the constituency. The other allegations in the petition against the 1st respondent are not true.

13. The 5th respondent in his counter adopted the written statement of the 1st respondent and further alleged that Athimoolam executed an annuity document without 5th respondent's knowledge and also cancelled it subsequently.

14. The 2nd respondent's counter supported Petitioner's contentions.

15. The 7th respondent in his written statement asked for a prayer that he himself be treated as duly elected to the Reserved seat, in addition to the grant of prayers asked for by the petitioner.

16. In his counter, the 8th respondent simply supported the petitioner and repeated some of the points which petitioner had raised in the petition.

17. The following issues were framed:—

(i) Whether there was improper acceptance of the nomination of the 1st respondent on the following grounds alleged in paragraph 5 of the petition:—

(a) That 1st respondent was not the person referred to as voter?

- (b) The 1st respondent was not qualified in respect of age at the time of nomination or election?
- (ii) Whether there was a systematic appeal to vote on grounds of community for the furtherance of the prospect of the 1st respondent's election as alleged in paragraph 6 of the petition?
- (iii) Whether the election has not been a free election by reason that threat of economic boycott was held out to the Harijan community with intent to interfere with the free exercise of the right of the members of that community to vote as alleged in paragraph 7 of the petition?
- (iv) Whether the election has not been a free election by reason that feeding of voters extensively prevailed at the election as alleged in Schedule C(1)?
- (v) Whether such feeding of the voters was by the 1st respondent and his agents with a view to procure votes for the 1st respondent?
- (vi) Whether vehicles were procured by the 1st respondent and his agents for the conveyance of the electors to and from the polling stations as specified in Schedule C(2)?
- (vii) Whether any pamphlets having reference to the election without mentioning therein on the face, the name and address of the printer, were issued as specified in Schedule C(3), and, if so, whether they were issued by the 1st respondent or with his authority, and, whether in any case, the result of the election was materially affected thereby?
- (viii) Whether the return of election expenses is false in the particulars mentioned in Schedules C(4) and H and paragraphs 25 and 26 of the petition?
- (ix) Whether there was false personation at the Punjai Periyadavadai, Adhamangalam and Kilimangalam booths as specified in Schedule D, and was such personation resorted to by the 1st respondent and his agents?
- (x) Whether there was any non-compliance with the provisions of any rules relating to election as specified in items 1, 2 and 3 of Schedule E.
- (a) by not opening the booths at the time prescribed?
- (b) by not allowing compensatory time in the booths mentioned?
- (c) by changing ballot papers of the voters of Parliamentary and Assembly Constituencies?
- (xi) Whether Government village officials procured votes for the 1st respondent as specified in Schedule F and whether they did so at the instance of 1st respondent or his agents?
- (xii) Whether more than 3,000 ballot papers relating to the petitioner were improperly rejected, and whether any invalid and defective ballot papers relating to the 1st respondent were improperly accepted, and, whether by such rejection or acceptance, the result of the election has been materially affected as alleged in paragraph 22 of the petition?
- (xiii) Whether the counting has been incorrect as alleged in paragraph 22 of the petition, and, whether the petitioner is entitled to recount?
- (xiv) Whether the transfer of the *isum* right was made by the 5th respondent with the connivance of the 1st respondent as alleged in paragraph 27 of the petition? If so, whether it contravenes Article 191(1) (a) of the Constitution of India, and, whether the election as a whole is void for that reason?
- (xv) Whether petitioner is entitled to any or all of the reliefs prayed for by him?
- (xvi) Whether the petitioner's prayer for setting aside the election of 5th respondent is maintainable while at the same time he prays for relief contemplated in Section 84(b) of the Representation of the People Act?

Additional issues framed:—

- (xvii) Whether this Tribunal has no jurisdiction to try this election petition for reasons stated in the additional written statement of the 1st respondent?
- (xviii) Whether the provisions of Order 6 rule 15 Civil Procedure Code have not been complied with in the verification in the petition and whether the petition has to be dismissed *in limine* under Section 90(4) of the Representation of the People Act?

18. The petitioner examined 57 witnesses (he is himself P.W. 57) and marked documents Exs. A-1 to A-130 on his behalf. Respondents 1 and 5 together examined 15 witnesses and marked Exs. B-1 to B-16. Of these witnesses, the 1st respondent is R.W. 15, and 5th respondent is R.W. 13.

19 We are referring to the evidence of these witnesses and the exhibits in the discussion of the various issues. Issues 17 and 18 were argued before us as preliminary issues. We passed a separate order on 11th November 1952 as follows:—

20 Issue 17—Once an election petition is presented before the Election Commission, it can deal with the petition two ways, viz., (a) dismiss the petition under Section 85 for non-compliance with the provisions of Section 81, 83 or 117, (b) or, if it does not dismiss it, then act under Section 86 and appoint an Election Tribunal for the trial of the petition. In the present case, the Election Commission has not dismissed the petition under Section 85 but has appointed this Election Tribunal for the trial of the petition. Once the Commission adopted that course, this Tribunal derived jurisdiction over the petition. It is not possible or open for this Tribunal to say that it has no jurisdiction simply on the ground that the Election Commission (in the opinion of the Tribunal) ought to have acted under Section 85 and dismissed the petition and ought not to have acted under Section 86 and appointed this Tribunal for trying the petition. Section 90(4) of the Representation of the People Act, 1951, runs as follows—“Notwithstanding anything contained in Section 83, the Tribunal may dismiss an election petition which does not comply with the provisions of Section 81, Section 83 or Section 117.” This necessarily implies that the Tribunal has jurisdiction even in case of a petition which did not comply with the provisions of Section 83 when it was originally pending before the Election Commission. On this issue, we find that this Tribunal has jurisdiction.

21 Issue 18—The sole ground raised in this connection by the 1st respondent (in the election petition) is that the verification in the petition is not in compliance with the provisions of Order 6 rule 15 of the Civil Procedure Code. Order 6 rule 15 provides as follows—

“x x x sub-rule (2) The person verifying shall specify by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge, and what he verifies upon information received and believed to be true.” The verification in the petition is “I declare that the facts stated above are true to the best of my knowledge and belief.” Of course, it would have been a better, stricter and more literal compliance with Order 6 rule 15 if the verification contained a statement as to which of the paragraphs in the petition relate to facts and circumstances which are based on petitioner's belief on information received. But the failure to give those explicit details do not, in our opinion, render the verification so ineffective or such a gross violation of and non-compliance with Order 6 rule 15 of the Code of Civil Procedure as to make it obligatory on our part to dismiss the petition under Section 90(4) of the Representation of the People Act. As a matter of fact we are inclined to believe that the verification as it stands, is in substantial compliance with the provisions of Order 6 rule 15. Accordingly we find that the provisions of Order 6 rule 15 of the Code of Civil Procedure have been substantially complied with in the verification in the petition and that this petition is not liable to be dismissed under Section 90(4) of the Representation of People Act.

22 Issue 1—This issue was not pressed by the petitioner and his advocates. They gave up this issue even before letting in evidence.

23 Issue 14—The 5th respondent was beyond doubt the isum talayari of Seppakkam village. Ex B-7 is an application dated 13th November 1951 by the 5th respondent, Tehsildar Vriddachalam in which he says that he has resigned the office and requests that his resignation may be accepted and order passed accordingly. Ex B-11 is the order passed by the Revenue Divisional Officer, Vriddachalam (who was also Returning Officer for the Vriddachalam Constituency), accepting the resignation of the 5th respondent on 19th November 1951 and appointing another person in his place permanently. The 5th respondent filed nomination on 21st November 1951 and it was accepted on 28th November 1951. Beyond doubt, the 5th respondent ceased to be a Government servant on 19th November 1951 by the order Ex B-11. So he was not a Government servant on the date of his nomination viz. 21st November 1951, and when it was accepted on 28th November 1951. Before Exs B-7 to B-11 were produced, some evidence was let in about an annuity document (Ex A-55) being executed by Adhimoolam in favour of his brother the 5th respondent. There is no need to consider all that evidence in view of Exs. B-7 and B-11.

24. In Ex B-7, the 5th respondent has mentioned that he applied to the Tahsildar for leave for three months as he intended to stand for election and that the Tahsildar had refused the leave. Section 79(b) of the Representation of the

People Act states that a candidate "x x x x shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate". Beyond doubt the 5th respondent was a talayari in Government service upto 19th November 1951. Mr. V. Jayarama Ayyar, for petitioner, contends that in view of the clause underlined by me above in the application for leave, 5th respondent held himself out as a perspective candidate even when he was a talayari and long prior to his resignation. Even if this contention were true, the 5th respondent was not disqualified from being a candidate. Section 32 of the Representation of the People Act runs as follows:—"Any person may be nominated as a candidate x x x x if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act". Article 191(1) of the Constitution runs as follows:—

"A person shall not be eligible for being chosen as and for being a member of the x x x x (a) if he holds an office of profit under the x x x Government of any State x x x". This article is a bar for being chosen and for being a member of the Legislative Assembly. The 5th respondent had ceased to be a talayari at the time when he was chosen (by the Returning Officer) for being a member of the Legislative Assembly. For, he had ceased to be a talayari even before the date of the nomination and the date of the acceptance of the nomination.

25. There is no evidence to show that the 1st respondent had anything to do with any transfer of isum right by the 5th respondent. Therefore we find as follows:—It is not proved that the 1st respondent connived at any transfer of isum right by the 5th respondent or had anything to do with it. In any case, there is no contravention of Article 191(1)(a) of the Constitution of India, and the election is not void on any ground concerned in this issue.

26. *Issue 7.*—The pamphlets concerned in this issue are mentioned in Schedule C(3) which also makes reference to Schedule B. Of these, Ex. A-37 (item 7 in B Schedule) is a poster which bears the vilasam (E.V.R. Leader, Dravida Kazhagam). There is no evidence to show that he is not the printer or that he is not the publisher. It has to be presumed that he is the printer and publisher. All the other pamphlets and posters, etc., in this schedule contain the name of the Organisation or person who is the publisher and also the printing press concerned. The 1st respondent as R.W. 15 says "I do not know who issued Ex A-37 x x x I did not bear the cost of issue of Ex. A-37 x x x x x x". So we find that it is not proved that any pamphlets were issued without mentioning therein on the face, the name and address of the printer. The other points concerned in this issue do not arise.

27. *Issue 9.*—Schedule D contains the items concerned in this issue.

28. *Item 3.*—*Kilimangalam.*—No evidence was let in on this item. Nothing is proved.

29. *Item 1.*—P.Ws. 22, 23, 40 and R.W. 12 depose about this incident which was at Chinna Vadavadi Polling Station (not Peria Vadavadi) which served Peria-vadavadi Village. There was no polling station at Peria Vadavadi. The version of the witnesses for the petitioner is as follows:—Entry No. 313 in the electoral roll of Peria-vadavadi is:—"Natarajan son of Ayyakannu 23, Scheduled Caste". The genuine voter went to the polling booth and was standing in the queue of waiting persons to go into the booth for voting. Just then another man called "Natarajan son of Ayyakannu of Peria-vadavadi came out of the booth after voting. He had the mark of indelible ink in his hand. P.W. 22 who was the Polling agent for petitioner in that polling booth (Chinnavadvadi), told this man who had voted, that he had no vote and that only the other man had vote. At that time, the 1st respondent's agent, Ramadas, who was present there heard this and said, that the name of the ink-marked man was in the list and that he (the marked man) was the voter. The marked man also said that the 1st respondent's agent had given him the chit. P.W. 22 brought this matter to the notice of the Karnam of Peria-vadavadi P.W. 23. The latter explained that the man who had not voted was the genuine voter whose name was in the list. But still Ramadas (who was a resident of Alachikudi about 4 miles away from Peria-vadavadi) asserted that the marked man was the voter. P.W. 22 then took the two Natarajans and Ramadas and the Karnam. P.W. 23 to the Presiding Officer P.W. 40 and represented the facts. Ramadas remained outside while the others came into the booth. Then an agent of T.N.T. party called S. Ramanathan who was sitting inside the booth, asserted that the marked man was the real voter in the list. P.W. 40 questioned the two Natarajans. Each of them said that he was Natarajan son

of Ayyakannu. P.W. 23 then told the Presiding Officer (P.W. 40) that the unmarked man was the genuine voter who was entitled to vote. P.W. 40 handed over the two men to the Police Constable deferring the enquiry to a later time at leisure.

30. R.W. 12 Muthuvel Padayachi claimed to be the polling agent of the 1st respondent in the booth at Periavadavadi and said that S. Ramanathan (who was also the polling agent of the 1st respondent) never came inside the booth and that neither S. Ramanathan nor the (R.W. 12) asserted that either of the two Natarajans was entitled to vote.

31. Both the Natarajans answered the description given in Ex. A-43(a), so far as the name, father's name and village name were concerned. It appears from the evidence of the Karnam P.W. 23 that the unmarked Natarajan was the man who was really mentioned in Ex. A-43(a) in view of the house number. The exact circumstances under which he marked Natarajan got ballot paper are not in evidence. In particular, it is not in evidence that the house number was read out to him from the electoral roll, or that any one challenged the identity of this man with the genuine voter. From the evidence, it appears quite possible and highly probable that the man who voted as well as Ramadas and S. Ramanathan (agent of the 1st respondent) believed that the marked man was the real voter. In any case, there is nothing to show that at the time when he got ballot paper, any of these people knew that he was not the real voter or asserted with deliberate falsehood that he was the genuine and rightful voter. The Karnam P.W. 23 says that Ramanathan (Polling Agent of the 1st respondent) asserted that the marked Natarajan was the real voter. It also appears that this S. Ramanathan is a man of Periavadavadi. From the fact that he belonged to the village of the two Natarajans it cannot be presumed that he must have known that the marked Natarajan was not the real voter or that the unmarked Natarajan was the real voter. The standard of proof required to prove the false personation by the marked Natarajan or of abetment of false personation by any agent of the 1st respondent (Ramanathan) or any other agent is the same as is required to prove a charge of offence, in a criminal case. Consequently, it is not possible to presume that the marked Natarajan knew that he was not the real voter or that S. Ramanathan or any other agent of the 1st respondent knew that the marked Natarajan was not the real voter or abetted false personation. Therefore, we find that no false personation regarding this item is proved and that no corrupt practice by the 1st respondent or any of his agents is proved.

32. Item 2.—*Athamangalam booth.*—The witnesses who depose about this are P.Ws. 12, 13, 19, 20 and 21. Their version is as follows:—Ex. A-41(a) is the entry relating to voter Thangavelu son of Ramasami Pillai, residing at Sathanatham, a hamlet of Athamangalam village. This voter died on 30th July 1949, and Ex. A-42 is the entry in the Death Register. It is proved by the village Munsif of Sathanathan P.W. 21. Ex. A-41(a) shows the age of the genuine voter at the time of the preparation of the electoral roll as 24. On election day, one Thangavelu son of Ramaswami appeared at the Athamangalam polling station and told the Assistant Presiding Officer P.W. 13 that he was voter Thangavelu. P.W. 12 then looked up the electoral roll and picked up the entry Ex. A-41(a). Then the petitioner's polling agent P.W. 19 asserted that this was not the real voter enrolled in the list, that the claimant was not entitled to be a voter at the time of the preparation of the electoral rolls and that the real man mentioned in Ex. A-41(a) had died. The polling agent of the 1st respondent called Chinnakannu Padayachi supported the claim of the claimant that the latter was the real voter. P.W. 13 then sent Thangavelu to the Presiding Officer P.W. 12.

33. P.W. 19 (Petitioner's agent) challenged the vote and deposited Rs. 10 as per the rules. P.W. 12 read out the full entry Ex. A-41(a) to the man who wanted to vote and asked him whether he was the voter concerned in that entry and also said "Petitioner's agent says that you are not the voter. If it turns out that you are not the voter, you are liable to be prosecuted". The man persisted in asserting that he was the voter. P.W. 12 asked him to sign in the challenge form and he hesitated. P.W. 12 again explained the position and the man then said that he was not the voter. So P.W. 12 did not give ballot paper to the man. He returned the deposit of Rs. 10 to P.W. 19.

34. Ex. A-62 is the form in which that claimant signed. His entry in column 5 of Ex. A-62 under the heading "Name of identifier if any" is 'Nil'. If any one had identified the claimant as the real voter before the Presiding Officer the latter would have noted the name of that man in this column No. 5. So, it has to be taken that no one told the Presiding Officer that the claimant was the real voter mentioned in Ex. A-41(a). P.W. 13 says that an agent of the 1st respondent asserted that the claimant was voter No. 211. But he is unable to give the name

of that agent. The village munsif of Athamangalam P.W. 20 says that Chinnakannu was present at the time when Thangavelu claimed to be the real voter. But he does not say that Chinnakannu asserted that the claimant was the real voter before the Assistant Presiding Officer P.W. 12. In these circumstances, there is room to doubt the correctness of the version of the petitioner's polling agent P.W. 19 that the 1st respondent's agent Chinnakannu (who was a resident of Athamangalam the village of both the Thangavelus) asserted before P.W. 13 that the claimant was the real voter.

35 Ex A-124 shows that Chinnakannu was the polling agent of the 1st respondent at Athamangalam Polling Station in booth No. 1. He was not summoned or examined. But in the light of the evidence referred to above it is not proved and it cannot be presumed that Chinnakannu must have asserted that the claimant Thangavelu was the real voter. R.W. 11 was the polling agent of the 1st respondent at Athamangalam Polling Station. He says that he was polling agent of the 1st respondent at Athamangalam Polling Station and was present when Thangavelu came for voting. He (R.W. 11) says that he did not assert that the man had a vote, but kept quiet. Ex A-92 is the polling agent form relating to this witness and shows that he (R.W. 11) was working in Athamangalam in booth No. 1. He says that he did not see Chinnakannu on the whole of election day. There is no room to doubt the evidence of P.W. 20 the village Munsif that Chinnakannu agent of the respondent was present at the time of the challenge.

36 Even assuming for argument's sake that Chinnakannu Padayachi did assert that the entry in the voters' list related to the claimant Thangavelu it does not necessarily mean that his assertion was deliberately false (that is made with the knowledge that the assertion was false). Petition says that the claimant Thangavelu was 18 years of age at the time of voting. If this were true, the claimant could not have been the genuine voter. P.W. 20 (village Munsif) says that the genuine voter whose name is in the electoral list lived in Nadu Street and that the claimant is a resident of south street. No evidence has been let in regarding the age of the claimant Thangavelu. Therefore no decision can be made on the basis of age to the effect that the claimant or Chinnakannu Padayachi or any one else must have known that the claimant was the real voter in the list. The entry Ex A-41(a) simply mentions (in addition to the name of voter and father's name) the number 1-84. It does not mention specifically the name of the street of the voter as Nadu street. So when the entire entry Ex A-41(a) was read out by P.W. 12 there was nothing which explicitly showed that the claimant was the genuine voter described in the entry. The numbers 1-84 could not have conveyed and impression or conviction to Thangavelu or Chinnakannu Padayachi that the claimant Thangavelu was not the voter. As a matter of fact the number against the claimant's parents is 1-98. The number 1 is common. It is true that the Village Munsif P.W. 20 asserted that the entry Ex A-41(a) related to Nadu street Thangavelu. But this does not necessarily mean that Thangavelu knew right from the beginning that the entry related to a dead man of Nadu street or that he believed the assertion of the village Munsif to be true from the time the assertion was made. There still remains the possibility that the claimant Thangavelu and Chinnakannu Padayachi bonafide believed that the former was the genuine voter mentioned above when they made their assertions and then ultimately Thangavelu's belief in his own right diminished and that he felt convinced by the assertion of the village Munsif and frightened by the consequences described by the Presiding Officer and then withdrew his claim. So there is no evidence on record that Thangavelu committed personation (deliberately) or that Chinnakannu deliberately abetted personation by Thangavelu.

37 So, we find on this issue (issue 9) that no false personation at any of the booths as specified in Schedule D has been proved and that no connection of 1st respondent or any of his agents with any false personation has been proved.

38 *Issues 4 and 5 (Schedule C)*—The particulars regarding feeding are contained in Schedule C-1. It contains 6 items. Of these, no evidence has been let in regarding item 3 Thiagadurgam. The evidence regarding the other items is as follows—

39 *Item 1—Vridhachalam*—The allegation in this schedule is about feeding on 2nd January 1952 at Thanga Vilas Hotel by the 1st respondent and his agents. The only evidence on this point is that of P.W. 7. He says that he left the polling booth at 4-30 P.M. after working, to Thanga Vilas Hotel and took refreshments there. He does not say that he took refreshments as a voter. But, on the other hand he says that he took meals after working for the 1st respondent till 4-30 P.M. It does not appear from the evidence that he was fed in his capacity as voter. Therefore, this item is not proved. Incidentally this witness mentions that he was

fed in a matam on 2nd January 1952 and also on 1st January 1952. But these do not relate to the item in C-1 schedule which relates only to Thanga Vilas. No corrupt practice is proved.

40. *Item 2.—Thittakudi-New Cafe—feeding of voters by the 1st respondent and his agents on 2nd January 1952.*—P.W. 34 is the only witness who deposes to this item. His evidence is as follows:—Marudamuthu Padayachi, who worked for the 1st respondent, stood near the New Cafe hotel and gave chits to voters and got them supplied with tiffin on those chits on behalf of the 1st respondent. The proprietor of New Cafe is Perumal. The return of expenses of the 1st respondent contains a receipt issued by Perumal dated 5th March 1952 for Rs. 105-8-0, for meals etc., supplied till 31st December 1951. The 1st respondent's case is that he had no accounts with Perumal's New Cafe and no supply was made by the latter on behalf of anybody after 31st December 1951. P.W. 34 was polling agent for petitioner at Thittakudi and he does not say that he gave any complaint about this illegal feeding to any of the officers present. He has not even attempted to give the names of or details about any particular persons who were fed. It is not safe to rely on the uncorroborated testimony of P.W. 34. So this item is not proved satisfactorily.

41. *Item 4.—Thittakudi at Kannan's tea shop.*—There is no evidence about this item except a casual mention by P.W. 57, i.e., petitioner himself. He does not say that he saw the feeding. This item is not proved.

42. *Item 5.—Kaluthur.*—P.W. 42 and R.W. 10 are the witnesses regarding this incident. P.W. 42 is a servai of Thondankurichi who says that one Akkanur Ramasami, who worked for the 1st respondent gave him (P.W. 42) a chit and asked him to use it to go to the tea shop and get refreshments there and that he (P.W. 42) accordingly went there and got tiffin. P.W. 42 says that he worked in the last election for the 1st respondent and also that he and others were given tiffin not as remuneration for having voted, but just as they used to be given on all other occasions. Therefore, he was not fed as a voter and there was no bribery or corruption as is seen from his evidence. R.W. 10 who was a worker of the 1st respondent, denies the supply of tiffin to voters. No bribery or corruption has been proved.

43. *Item 6.—Tholuthur.—tea stall.*—P.Ws. 45 and 52 depose about this. P.W. 45 says that Marimuthu Padayachi (who was the 1st respondent's man) brought some Harijans including P.W. 52 in a car to the polling station and then asked those people to go and have tiffin at a hotel which was kept in the house of a Padayachi who had gone away to Ceylon and which existed only on that day at that spot. P.W. 52 says that he ate the tiffin, went to the polling booth and voted. P.W. 45 does not say that he actually saw these people taking tiffin. He says that he saw them being sent to the hotel by Marimuthu with directions and saw them later on from the hotel and join the queue of voters at the booth. The 1st respondent as R.W. 15 says generally: "Neither I, nor any of my agents supplied refreshments or made arrangement for such supply to any voter on polling day". The learned advocate for the 1st respondent points out that in this item (as in every other item in Schedule C-1) the allegation in the petition is that the 1st respondent and his agents fed the voters. He says that it is not supported by the evidence which does not at all mention that the 1st respondent was present anywhere there or that he fed any voter. We feel that the evidence of P.Ws. 45, 52, on this item does not satisfactorily prove feeding.

44. We find that the instances of feeding at Vriddachalam, Thittakudi, Tholuthur and Kaluthur are not satisfactorily proved.

45. On issue No. 4, we find that feeding of voters did not extensively prevail at the election as alleged in Schedule C(1). We find that the election has been a free election.

46. Issue (5) does not arise in view of our finding on issue (4).

47. *Issue 6.—Schedule C(2).*—This schedule contains reference to 3 cars having been used at the various places.

48. *Item 1.—M.D.C. 514.*—Rajavelu, 1st respondent's election agent carried voters for Vriddachalam booths from railway junction. Kuppanatham, Manalur, etc. P.Ws. 6, 11, 38 and 44 and R.W. 14 are the witnesses regarding this item. Of these, P.W. 44 is a man of Manalur, and all the others are of Vriddachalam. The mention in the schedule that Rajavelu was the election agent of the 1st respondent is not correct. The election agent of the 1st respondent was Ramadas of Alachikudi. But, Rajavelu Padayachi was certainly an agent of the 1st respondent as is seen

from the agency form Ex. A-99 for polling station No. 160. P.W. 8 says that Rajavelu Padayachi and Ramadas took him and others to the polling booth for voting. But he says that his house is two miles from the railway junction and that he does not know how far Kuppanatham or Manalur is from Vriddachalam. It cannot be said that this witness was transported from any of the places mentioned in item 1. P.W. 11 (Petitioner's polling agent) says that he saw Ramadas bringing Arumuga Padayachi and Rajavelu in M.D.C. 514, dropped them at the entrance to the polling station for voting and then went away and that the Presiding Officer called Ramadas and warned him for having brought the car with voters. The Presiding Officer has not been examined to corroborate this version about warning. Rajavelu was an active worker like Ramadas on behalf of the 1st respondent and not a mere voter. It is not known for certain that Arumugam was not also a worker for the 1st respondent. So, P.W. 11's evidence cannot be taken as proving transport of voters for voting.

49. P.W. 44 is Rajagopal of Manalur and says that Rajavelu took him as well as Govinda Padayachi, his wife and Uliya Padayachi (who were voters) in M.D.C. 514 from Manalur to the polling booth to vote in the booth at the school. P.W. 38 corroborated P.W. 44. There was a suggestion put to P.W. 44 that he did election work for petitioner and disbursed large sums of money on his behalf and to P.W. 38 that he was a domestic servant of petitioner. But the witnesses denied the suggestion. There was no attempt to substantiate this suggestion. There is no room to doubt the evidence of P.Ws. 44 and 38. P.W. 38 says that Rajavelu asked him to vote for cock-box. Ex. A-50 and A-51 are two bills showing that 9 gallons of petrol were purchased for M.D.C. 514 on 2nd January 1952 from the petrol bunk of P.W. 24. Petitioner himself gave a petition Ex. A-52 in the Police Station to the Assistant S.H.O. at 1 P.M. on 2nd January 1952 that Rajavelu Padayachi, an agent and friend of the 1st respondent was carrying voters in the hired car M.D.C. 514 (dark-blue sedan) from Manalur and other places to Vriddachalam polling stations for the sake of T.N.T. candidate. The Sub-Inspector, P.W. 25, went to the petrol bunk of P.W. 24, verified the bills Exs. A-50 and A-51 and initialled them the same day. He contacted Rajavelu and the driver T. P. Narayanaswami of Tiruchirappalli and then wrote report Ex. A-52(a). 1st respondent says that he was using M.D.C. 514 only upto 31st December 1951. But the evidence of P.W. 25 and his report Ex. A-52(a) (apart from petitioner's petition Ex. A-52) show that M.D.C. 514 took petrol at the bunk of P.W. 24 on 1st January 1952, and 2nd January 1952 and that the Sub-Inspector P.W. 25 actually found Rajavelu taking people in M.D.C. 514 on 2nd January 1952 and that Rajavelu explained that they were friends coming from the railway station. In schedule C(2), it is merely mentioned that the cars carried "Voters".

50. R.W. 14 was the polling agent of the 1st respondent in the polling booth at the Board High School and worked for the 1st respondent outside the booth. He says that neither Ramadas nor Rajavelu brought voters to the polling booth in M.D.C. 514 and that no one reported to the Presiding Officer about bringing of voters on behalf of the 1st respondent. This witness is a deeply interested witness. He has seconded the 5th respondent's nomination in the form Ex. A-97 and issued pamphlet Ex. A-38 painting the congress administration in a very bad colour. He also admitted that after the election, petitioner took steps to evict him from a building and got possession through Court. So, we do not accept the evidence of R.W. 14. We see no reason to disbelieve the evidence of P.Ws. 44, 38 and 25. We accept their evidence. It is proved that Rajavelu, who was an agent of the 1st respondent took the car from Vriddachalam booth to Manalur and brought in it voters P.W. 44, Govinda Padayachi, Uliya Padayachi, etc., to the polling booth to vote.

51. Ex. A-117 is a receipt issued by T. P. Narayanaswami (the driver of M.D.C. 514) in favour of C. Ramalingam (a worker of the 1st respondent) for election purposes from 28th December 1951 to 30th December 1951. In his written statement, the 1st respondent has stated "M.D.C. 514 was employed by this respondent only till 31st December 1951 and they were not used by this respondent on the 1st or 2nd January 1952 as falsely alleged". In his evidence (in chief-examination) the 1st respondent says "I stopped using M.D.C. 514 with effect from 31st December 1951". But, in cross-examination, he said "M.D.C. 514 worked for me till the end of 31st December 1951. I cannot say whether Narayanaswami, driver of that car, was with me till 3rd January 1952. I cannot say whether the mention in it of the period of work till 30th December 1951 is correct". As a matter of fact, the bill Ex. A-117 mentions the date 28th December 1951 to 30th December 1951 and is dated 3rd January 1952. The written statement is to the effect that car was used

on 31st December 1951. Thus it is clear from the written statement and the evidence of the 1st respondent that the car was used at least on one day (31st December 1951) beyond the period covered by receipt. Thus the state of evidence on the side of the 1st respondent is not satisfactory. We see no reason to disbelieve the evidence on the side of the petitioner that the car was actually used on 2nd January 1952, and that the petrol was put into this car on that day. So we believe (i) that the car was procured and hired by the 1st respondent on or prior to 28th December 1951; (ii) that the 1st respondent continued to use the car even after 30th December 1951; (iii) that this car which had been hired by the 1st respondent was used by his agent on 2nd January 1952 to fetch voters (viz., P.W. 44 and Padayachis from Manalur) to polling booth at Vriddachalam.

52. *Item 2.*—M.S.C. 2520 used by the 1st respondent and his agent Vadivelu Padayachi to carry voters to Kaluthur, Veppur and other places.—Evidence has been let in only regarding transport to Kaluthur and Veppur. So the other places mentioned in the Schedule need not be considered.

53. *Kaluthur.*—We have the evidence of P.Ws. 28 and 29, 33 and 42 and R.W. 10 in the matter. P.W. 33 Sellamuthu Servai says that Thillai Govinda Padayachi, the village school teacher who was doing election work for the 1st respondent sent him and four others in M.S.C. 2520 which was driven by Vadivelu Padayachi and that when these people alighted from the car at Kaluthur near the polling station for voting, the petitioner's polling agent P.W. 28, came and quarrelled with Vadivelu about the transport of voters and that meanwhile the passengers went and voted and afterwards walked back home. P.W. 28 who was the petitioner's polling agent at Kaluthur corroborates P.W. 33. He also states that Ramaswami Servai was working within the booth for 1st respondent, that he orally reported the matter to the Police who were on bandobust duty at the station and that they declined to interfere as the car was going on the main road. The latter corroborates P.W. 28. He also says that he reported to the Karnam P.W. 29. He says that he (P.W. 29) questioned the driver Vadivelu in the matter and that the latter went away with the car saying "All right I will go away. I will not return", and that the 1st respondent's agent Ramaswami Servai also said so. He knows the driver. He is an ex-police constable of Vriddachalam. He has purchased a car and is plying it for hire. R.W. 10 is Akkanur Ramaswami Servai. He says that he knows P.Ws. 29 and 42, that they worked for the petitioner and that Vadivelu's car did not at all come to Kaluthur Polling Station. He also says that neither he (R.W. 10) nor P.W. 33 took voters to the polling stations in car. We believe the evidence of P.Ws. 28, 29, 33 and 42 as it is more reliable than that of R.W. 10. This incident is proved.

54. *Veppur.*—P.W. 47 is the Village Munsif of Veppur. P.W. 48 is the karnam of that village P.W. 51 is Harijan of Sirunasalur. Their version is as follows:—

One Chinnaswami Goundan did election work for the 1st respondent. He went in car M.D.C. 2520 (driven by its owner Vadivelu an ex-head constable) to Sirunasalur and transported in it Harijan voters namely P.W. 51, Sanniyasi, Suiyau and Muthan to Veppur polling booth for voting and dropped them at a Perumal temple about 150 feet from the booth. When the voters were being dropped there the village officers P.Ws. 47 and 48 were present. P.W. 47 reprimanded Chinnaswami Goundan for having brought the voters in the car. P.W. 47 also reported the matter to the Presiding Officer. But the latter dropped the matter on the ground that P.W. 47 had already reprimanded Chinnaswami and sent away the car P.W. 48 the karnam corroborates this evidence.

55. There is no rebuttal evidence in this matter let in by the 1st respondent apart from his own evidence as R.W. 15. He says as follows:—"There was a driver called Syed Karim. He was working under Vadivelu. Vadivelu and Karim both used to driver that car. Its number was M.S.C. 2520. Vadivelu owned that car. That car worked on 2nd January 1952. I have not summoned Karim Exhibit A-109 is the receipt issued by Karim on 3rd January 1952. The receipt Exhibit A-169 is for payment of wages to Karim for the period from 29th December 1951 to 31st December 1951".

56. Beyond doubt Chinnathambi Padayachi was a polling agent for the 1st respondent at Veppur. Exhibit A-125 is the agency form for him. The first respondent says that Vadivelu was a friend of his and did not take any money from him as hire for the use of the car. The evidence of P.Ws. 47, 48 and 51 is consistent. The only suggestion made to P.Ws. 47 and 48 is that they worked for the petitioner. They denied the suggestion. There is no reason to disbelieve these witnesses. We believe them. There is no attempt to rebut their evidence. 1st respondent's agent

Chinnaswami was not summoned at all. Vadivelu was summoned by the 1st respondent but not examined. Ex. B-16 is the original bill produced by the 1st respondent for putting 10 gallons into M.S.C. 2520 on 2nd January 1952. This instance is proved.

57. Item 3 in Schedule C2.—M.D.C. 911 used by the 1st respondent and his agent to carry voters to Thittagudi, Tholudur.—No evidence was let in regarding Thittagudi.

58. Tholudur.—The witnesses are P.Ws. 45 and 52. Their version is as follows:—

P.W. 52 is a Harijan residing at Tholudur in the Cheri about 2½ or 3 furlongs from the polling station. Marimuthu Padayachi who was working for the 1st respondent brought M.D.G. 911, took P.W. 52 and others in it to the polling station and dropped them at a hotel about ½ a furlong from the polling booth. He directed them to take tiffin in the hotel and to come and vote. P.W. 52 followed the direction. P.W. 45 saw Marimuthu bring these people in the car to the polling station.

59. The 1st respondent says that neither he nor any of his agents transported Harijan or Vannia voters to any polling stations to vote. The 1st respondent stated (in h.s counter) that M.D.C. 911 never worked for him. His accounts do not show any expenses on account of M.D.G. 911.

60. The evidence is regarding M.D.G. 911. But the petition mentions the car used as M.D.C. 911. The petitioner explains that this was an error in typing the fair copy from the manuscript office copy (of petition) which he gave to the typist. It may be so, but in any case, the petition as it stands referred to one car and the evidence relates to another car (a change in the letter from G to C makes as much difference regarding a car as a change of the number from 9 to 7 or 1). We do not consider it safe to rely on the evidence relating to the car not correctly described in the petition. So this item is not proved.

61. On issue 6 we find that vehicles M.D.C. 514 and M.S.C. 2520 were hired and procured by the 1st respondent for the conveyance of electors to the polling station at Vriddachalam, Kaluthur and Veppur.

62. Issue 10.—Schedule E 1.—This relates to late opening of booths. There are five items given under this head. Regarding items 3, 4 and 5 viz., Malayanur, Sirumangalam and Orangur, no positive evidence was let in on the side of the petitioner apart from petitioner saying (as P.W. 57) in a general manner, that opening was late in those and other polling booths. He has no personal knowledge regarding these 3 booths. So, there is no satisfactory evidence of late opening in these three places.

63. Item 1(a).—Vriddachalam booth in girls school.—P.Ws. 1, 7 and 11 speak about late opening in this booth. P.W. 1 is a practising lawyer and was working as a polling agent for a parliamentary candidate. He says that the booth opened only at 8-30 A.M. and that he sent a telegram meanwhile at 7-15 A.M. P.W. 7 says that he waited at the girls' school booth till 7-45 A.M. and went away as it did not open. P.W. 11 also speaks about the late opening at 8-30 A.M. There is no reason to disbelieve this witness. P.W. 11 also says as follows:—"From the time the polling commenced, there was a continuous chain of voters coming and standing in queue and polling upto 5 P.M. except during interval. People stood in queue from even before the commencement of polling....."

64. Schedule E(xl)(b).—Vriddachalam Board High School.—P.Ws. 38 and 57 speak about this. P.W. 38 is a resident of Vriddachalam who says that he went to the polling station at 7 A.M. and found that 30 voters were waiting at that time and that the booths were opened only after 8-30 A.M. The petitioner as P.W. 57 speaks to the late opening of the booths. Ex. A-64 is the telegram sent by him to the Returning Officer.

65. Schedule E(1)(2) Pennadam.—P.W. 16 speaks about this. He was petitioner's polling agent at Pennadam and personally saw that the polling station opened only at 9 A.M. instead of the scheduled time of 7 A.M. Another agent of petitioner sent a telegram to the Deputy Collector, Tirukoilur (R.W. 1); P.W. 16 handed it at the local Telegraph Office. There is no room to doubt the evidence of this witness.

66. R.W. 1 the Returning Officer says that at 4 P.M. he left Thirukoilur by jeep and reached Vriddachalam at 5-15 P.M. and also went from there to Pennadam and two other places (not concerned in Schedule E) and satisfied himself that compensatory time had been granted in all the places which he visited. He admits that telegrams were received by him and says that he relayed the messages to the

concerned Presiding Officers (about the late opening of the booth). The 1st respondent as R.W. 15 says as follows:—"Some booths were opened late. I also sent some telegrams in the matter. I cannot say whether I sent 3 telegrams.....". We believe that the booths in the two polling stations at Vriddachalam and the polling station at Pennadam opened late by about 1½ hours and 2 hours respectively.

67. *Schedule E-II*.—Closing of booths without allowing the voters who were standing for hours together in queue till 5 P.M. within the prescribed limits. Rule 17(2) is as follows:—"The Presiding Officer shall close the polling station at the hour fixed in that behalf under section 56 (5 P.M. in the present case) and shall not admit thereto any elector after that hour."

Provided that all electors present within the polling station before it is so closed shall be entitled to have their votes recorded. *Schedule E-II* obviously refers to people contemplated by this proviso. Issue 10(b) also relates to these people, though the words "compensatory time" are capable of other interpretation also. From the evidence of P.W. 11 it appears that there were about 150 people like that at the Girls' School booth at Vriddachalam. The number of people so waiting at the Board High School polling station at Vriddachalam is not known.

68. In *Schedule E-II*, 12 places are mentioned. But evidence was let in only regarding Vriddachalam. Pennadam is not one of the villages mentioned in the *Schedule E-II*. The petitioner says that, if compensatory time had been given, he would have obtained more votes and that the result of the election would have been different. This is only a hope and claim but not a positive or conclusive proof.

69. *Schedule E-III*.—Change of ballot papers—parliamentary and assembly constituencies:—Four villages are mentioned in this schedule. But petitioner let in evidence only regarding one of them, viz., Sathiyavadi. The witness who spoke about this is P.W. 46. He says as follows:—"Assembly ballot boxes were found in Parliament booth and *vice versa*. I pointed out this matter to the Presiding Officer. Voters who wanted to vote for Parliament put votes into the Assembly boxes and *vice versa*. There were six candidates for Parliament and 9 for Assembly. When I reported to the Presiding Officer it was about 9 A.M. He said "Voting has commenced and proceeded. It cannot be changed now". The version of this witness is not in line with the allegation in *Schedule E-III* which corresponds to paragraph 20 of the petition. In paragraph 19 of the petition, there is an allegation that Parliamentary ballot boxes were placed in the Assembly booths and *vice versa*, but no particular polling station is specified in this paragraph of the petition, and there is no schedule corresponding to this paragraph. Therefore the evidence of P.W. 46 regarding the change of ballot boxes in position (Parliamentary and Assembly boxes) need not be gone into.

70. R.W. 1 deposes as follows: "At the time of counting, I found that only Parliamentary ballot papers were found in Assembly ballot boxes in the polling stations of Sirumangalam booth Nos. 1 and 2, Sathiyavadi Booth No. 1, Athanangalam Booth No. 2 and Tholuthur booth No. 2. All the ballot papers in these boxes were Parliamentary ones without exception. I counted them as valid votes. * * * Immediately after election was over for Kallakurichi Constituency on 2nd January 1952, the Tahsildar of Kallakurichi brought to my notice that Parliamentary ballot papers had been wrongly used in Pottiam Polling Station No. 58 in Kallakurichi Constituency. I referred the matter to the Collector who in turn referred it to the Election Commission. The latter sent me a telegram Ex. B-5 that all ballot papers should be counted irrespective of colour or bar. Green Bar was used in Parliamentary ballot papers and brown bar in Assembly ballot papers. I received the telegram Ex. B-5 before I started counting votes for any Constituency. * * *. They (Parliamentary ballot papers) did not bear the serial numbers or marks authorised for the respective booths. Regarding Pottiam, use of Parliamentary ballot papers in the Assembly booths was a *bona fide* mistake. * * * From the very fact that all the boxes contained Parliamentary ballot papers, I thought that they were all cases of *bona fide* mistake. * * * There is no provision in the Act or rules which authorises the condoning of such mistakes, i.e., breach of rule 47(c). There were some Parliamentary ballot papers along with the Assembly ballot papers, in Assembly boxes in some other booths. Those Parliamentary papers were treated by me as invalid. * * *".

71. We find that there was non-compliance with the provisions of rules relating to elections as follows.—(a) by not opening booths at the time prescribed; (b) by not allowing opportunity to vote, to voters who were within the polling station at the closing time of 5 P.M. (c) by changing ballot papers of the voters of Parliamentary and Assembly Constituencies. But we also find that it has not been proved satisfactorily that this non-compliance materially affected the result of the election.

72. *Issue 12*.—It is alleged in para. 22 of the petition that more than 3,000 ballot papers of petitioner were rejected as invalid, by an extra scrutiny. There has

been no evidence or argument on this point. This contention is not proved. We find that there was no improper rejection as alleged and that no defective ballot papers relating to the 1st respondent were improperly accepted.

73. *Issue 13.*—There is no evidence that there was any incorrect counting as alleged in paragraph 22 of the petition. We, therefore, find this issue in the negative and hold that petitioner is not entitled to recount. [This is without prejudice to issue 19 (c).]

74. *Issue 16.*—It is not possible to grant a relief setting aside the election of the 5th respondent on the ground that his nomination was improperly accepted and at the same time grant the relief in favour of the petitioner, as contemplated in Section 84 (b) of the R. P. Act to the effect that the election of the 1st respondent is void and that petitioner is the duly elected candidate. But there is nothing to prevent the petitioner from asking for both these reliefs. Treating the prayers as in the alternative, we hold that the petitioner's prayer for setting aside the election of the 5th respondent is maintainable.

75. *Issue 11.*—Schedule E mentions 28 villages. The heading of this schedule as well as the contents of paragraph 21 of the petition show that these are the villages in which the village officials, i.e., Karnam and Village Munsif, at the instance of the 1st respondent and his agents, took active part before and during the election and procured votes for the 1st respondent. Of the 28 villages, no evidence was let in regarding villages Maligai Kottan, Chittalur, Periamambattu (Nos. 13, 23, and 25 in the list).

76. *No. 1 Sembalapurichi.*—Kuppusami Padayachi is the village munsif of Sembalapurichi Vattam which includes the village of Kandiankuppam in which he resides. He is the son of Veerasami Padayachi who was the Polling agent for the 1st respondent in polling station No. 159 (Ex. A 104) a school at Vriddhachalam. Allimuthu Padayachi is the Karnam of Sembalapurichi vattam. P.W. 10 says that he saw the village munsif of (Sembalapurichi) canvassing from house to house in Vriddhachalam, and P.W. 14 says that he saw such canvassing in his village of Narumanam. But we do not attach value to the evidence of P.W. 10 and 14 as Vriddhachalam and Narumanam are not mentioned in Schedule F.

77. The version of P. W. 18 and 30 is as follows.—On election day, at Sembalapurichi polling station the village munsif and Karnam of Sembalapurichi were playing some blocking tactics, allowing into the polling booth only those who would vote for the 1st respondent and preventing the others from getting into the booth. Thev (Village Munsif and Karnam) also openly canvassed votes for the 1st respondent. P.W. 18 a ryot of Vriddhachalam say this canvassing. He is one of those persons who could not vote for a long time due to blocking tactics of the village munsif. P.W. 30 a Reddiar of Vayalur also saw the blocking tactics. Petitioner gave a petition Ex. A-54 to the Sub-Inspector of Vriddhachalam. P.W. 25, at the polling booth at Vriddhachalam. P.W. 25 went with a number of police men in a police lorry to Sembalapurichi polling booth, found tension on both sides, restored order and saw to it that all people could go in freely for voting as they liked.

78. P.Ws. 32 and 50 refer to the village munsif (of Sembalapurichi) canvassing votes along with the 1st respondent in the village of Vayalur (village of P.W. 32), concerned in item 28. Similarly, P.W. 43 speaks about such canvassing in his village of Mangalampettai (item 7) about 10 days before election.

79. In discussion under Item 28, we find that the assistance of the village Munsif of Sembalapurichi for the furtherance of the prospects of the election of 1st respondent was procured by 1st respondent.

80. The Village Munsif and Karnam of Sembalapurichi were cited by the 1st respondent, but not examined. We see no reason to disbelieve P.Ws. 13, 30 and 25. This item is proved to the extent mentioned above.

81. *Item 2.—Thittakudi.*—P.Ws. 34, 35, 36 and 39 speak directly about the action of the Village munsif of Thittakudi at Thittakudi. Their version is as follows:—R.W. 2 canvassed votes for the 1st respondent at Thittakudi. A man of that village, P.W. 35 saw this canvassing. He is a Nattamai of Padayachis in that village. On the election day, the village munsif R.W. 2 stood outside the polling station and advised voters who entered, to vote for the T. N. T. Party. A local man P.W. 34 saw this and complained to the Presiding Officer P.W. 39 who was a Judicial Sub Magistrate. On hearing, the complaint (at about 8 A.M. or 8-30 A.M.), he (P.W. 39) secured the presence of R.W. 2 warned him not to interfere with the voters and made him sit in the verandah so as to be available for help to (P.W. 39) if necessary. About 15 days prior to the election also, P.W. 13 had seen R.W. 2 and the karnam of Thittakudi canvassing votes in that village. At that time, P.W. 34 was canvassing votes for Congress. P.W. 36 is a contractor of Thittakudi who was constructing polling booths in Perumalai and

other villages. He saw the village Munsif and Karnam of Thittakudi doing election work along with the 1st respondent's brother Seetharama Padayachi at Thittakudi.

82 P.W. 31 a man of Tholuthur says that R.W. 2 worked in his vattam for the 1st respondent. This witness is not reliable as he is an omnibus witness for many villages and says that he cannot give the dates of his visits to various villages. For the actual working of R.W. 2 in Thittakudi, there is no evidence that it was done at the instance of the 1st respondent or any of his agents or with the connivance of the 1st respondent at Pattur. P.W. 36 says that the 1st respondent's brother Seetharama Padayachi and R.W. 2, Karnam etc., did election work for the 1st respondent at Thittakudi. But he does not say that the village munsif or Karnam worked along with the 1st respondent's brother or at the instance of the 1st respondent's brother or with the connivance of the 1st respondent. There is no evidence to show that the assistance of the village munsif or karnam was procured by the 1st respondent or any one of his agents or with the 1st respondent's connivance. P.W. 36 does not say that those people did election work together on any particular day. This item is not proved. (R.W. 2 denies having canvassed for the 1st respondent and played blocking tactics. It is not necessary to go into his evidence).

83. Item 3 (Edacheruvai).—The witnesses are P.Ws. 31, 36 and 55. P.W. 55 is a man of Keelacheruvai. His version is as follows.—At Edacheruvai, the 1st respondent told the local village munsif Shanmuga Padayachi: "I have asked this man to vote for me. He has not given any proper reply. Please talk to him and ask him to vote for me." Accordingly, the village munsif canvassed the votes of P.W. 55 and his relatives for the 1st respondent. This evidence is too artificial to be believed. After all, the 1st respondent was a man of a neighbouring village of Edacheruvai. There was no need for him to tell the Village Munsif within the hearing of P.W. 55. P.W. 31 a man of Tholuthur says that the Village Munsif of Edacheruvai worked for the 1st respondent. This is an omnibus witness speaking about canvassing in many villages unable to give dates. He cannot be believed. P.W. 36 is a contractor who speaks to having personally seen canvassing by the 1st respondent in the latter's own village with the help of the Village Munsif. This witness also is an omnibus witness and difficult to believe. This item is not proved.

84. Item 4 (Arangur) and Item 17 (Ramanatham).—The only witness who deposes about these villages is P.W. 31, who is a resident of Tholuthur. He is an omnibus witness whom we have found unreliable regarding items 2 and 3. Items 4 and 17 are not proved. (R.W. 3 is the Village Munsif of Arangur and Ramanatham. He denied having done election work for the 1st respondent).

85 Items 5 and 20 (Poolambadi and Kahamedu).—These two villages form one vattam. The only evidence in this matter is that of P.W. 17. He says that he saw the Village Munsif (of this vattam) Ramasami Udayar and the Karnam canvass votes for the 1st respondent in both the villages. He is a resident of a different village altogether, *viz.*, Naraiyur. He says that he knows about this canvassing about 10 days prior to the election, because he happened to be a guest in the house of his aunt at Poolambadi (1½ miles from Naraiyur). He also says that when the Village Munsif and others called him, he joined them in the house-to-house canvassing and saw them putting wall-posters. It is not safe to rely on the evidence of this witness. R.W. 8 is the Village Munsif of Poolambadi Vattam. He denies having canvassed votes for the 1st respondent. These items are not proved.

86 Items 6 and 10 (Nemam and Karuveppilankurichi).—The witnesses are P.Ws. 14, 37 and 46. Srinivasa Padayachi is the Village Munsif of this Vattam. P.W. 46 does not speak about the work of that Village Munsif in that Vattam; he speaks about canvassing in Sathavadi, which is not one of the villages in the F Schedule. So his evidence is useless. P.W. 14 is a Vannia Christian of Narumanam, and P.W. 37 is a man residing at Poonthottam. P.W. 37 simply says that several village munsifs, including Srinivasa Padayachi worked for the 1st respondent. He does not say where they worked, though he says that they worked five days prior to the election. His evidence is devoid of detail and cannot be relied upon. P.W. 14 says that Srinivasa Padayachi worked at Nemam and Karuveppilankurichi. He says that he met the petitioner after this alleged canvassing, but still did not tell the petitioner about an election meeting which he had seen and which he speaks about. We do not feel much impressed by the evidence of this witness, and we consider it unsafe to rely on the uncorroborated testimony of this witness. These items are not proved.

87. Item 7 (Mangalampettai).—For this, we have the uncorroborated testimony of only one witness, *viz.*, P.W. 43, a Naicker of Mangalampettai. He says that he saw the Village Munsif of Mangalampettai, Kubera Chettiar being picked up by

the 1st respondent (who came with other villagers) and canvassing in the company of the 1st respondent. He says that he was a client of petitioner in a case about three years back. It is not safe to rely on his evidence. This item is not proved.

88. *Item 8 (Tholar).*—We have the uncorroborated testimony of P.W. 54, a Padayachi of Alachikudi. He says that he worked for the 2nd respondent in 50 or 60 villages including Tholar. In the course of his tour of all those villages, he found the village munsifs of various villages working there. He speaks from memory about what he saw in lots of villages. He is not reliable. This item is not proved.

89. *Item 9 (Murugankudi).*—For this, we have the uncorroborated testimony of P.W. 15. He says that R.W. 6, the Village Munsif, canvassed for the 1st respondent. The Village Munsif, R.W. 6 denied the canvassing. We see no reason to prefer the evidence of P.W. 15 to that of R.W. 6. This item is not proved.

90. *Items 11 and 12 (Pelanthurai and Pasikulam).*—For this also, we have got the sole evidence of P.W. 15 which is about the Village Munsif, R.W. 4 of that vattam. R.W. 4 denies the canvassing. We cannot accept the uncorroborated evidence of P.W. 15 as preferable to R.W. 4. This item is not proved.

91. *Item 14 (Serumalai).*—We have got the evidence of P.W. 36. P.W. 36 is the contractor who gives omnibus evidence about several villages and whose evidence we could not believe regarding items 2 and 3. (No R.W. speaks about this village). This item is not proved.

92. *Item 15 (Perumalai).*—For this also, there is the uncorroborated evidence of witness P.W. 36 who is not a reliable witness. This item is not proved. The Village Munsif of Perumalai Ramachandra Moopanar was summoned by the 1st respondent and examined. But this does not affect the fact that the evidence of P.W. 36 is not reliable.

93. *Items 16 and 19 (Akkanur and Vaggayur).*—The only witness who deposes about this is P.W. 31 whom we have found to be not reliable regarding items 2 and 3. These items are not proved.

94. *Item 18 (Orangur).*—For this, we have got the uncorroborated testimony of P.W. 54 who is an omnibus witness for many villages and who is not reliable. He has been referred to regarding item 8 also. This item is not proved.

95. *Items 23, 24 and 26 (Keelanemali and Kandamathan).*—For these two items also the only witness is P.W. 54 is an unreliable witness. These items are not proved.

96. *Item 21 (Ka Elamangalam).*—P.W. 53 is the only witness who speaks about this. He says that the Village Munsif of his village (Subbaroya Padayachi) came with the 1st respondent and many others and did canvassing for the 1st respondent. He says that he too (P.W. 53) joined in the canvassing. It is not safe to rely on the uncorroborated evidence of this witness. This item is not proved.

97. *Item 22 (Pattur).*—P.Ws. 16 and 49 as well as R.W. 5 deposes about this. The Village Munsif of Pattur is Subba Reddi (R.W. 5). P.W. 49 is a Government Talayari of Pattur working under R.W. 5. The version of P.W. 49 is as follows:—About a week or 10 days prior to the election, the 1st respondent came to Pattur in the company of the Village Munsifs of Perumalai, Serumalai, his (1st respondent's) brother Seetharama Padayachi, as well as the local Village Munsif of Pattur (R.W. 5) etc. They did canvassing for the 1st respondent. P.W. 49 accompanied them at the instance of R.W. 5. The Village Munsifs went to the Cheri and asked the people to vote into the cock-box of the 1st respondent and distributed notices. P.W. 49 distributed some notices and posted some others on behalf of this canvassing party.

98. If this were believed, it would mean that he himself being a Government servant in office canvassed for the 1st respondent and that his help was procured by another Government servant, viz., the Village Munsif R.W. 5. R.W. 5 denies the canvassing. He says that he did not do any canvassing for the 1st respondent and also says that P.W. 49 has been under suspension in connection with a report sent by him (R.W. 5) about misappropriation of proceeds of village establishment pay bill. We see no reason to accept the evidence of P.W. 49 in preference to that of R.W. 5. P.W. 16 also says that he saw R.W. 5 canvassing at Pattur along with the Village Munsif of Thittakudi (R.W. 2) etc. This witness says that he came to know this when he was himself doing election propaganda for petitioner in Pattur etc. This witness is interested and his evidence cannot be accepted. This item is not proved.

99. *Item 27 (Poonthottam).*—We have got the uncorroborated testimony of P.W. 37. He is a resident of Vriddhachalam. He says that the Village Munsif of his,

village Thillai Govindaraja Mudallar and the Village Munsif of Nemam etc., worked along with Alachikudi Ramadas (an election agent of the 1st respondent) and Rajavelu, 4 or 5 days prior to the election, house to house. This witness was a polling agent for petitioner. He says that, at the polling station, he found the village munsif of Poonthottam, village Munsif of Nemam, etc., canvassing votes for the 1st respondent. But, still he says that he did not complain to any authority about these village munsifs, doing election work for the 1st respondent. He says that the petitioner himself visited the booth and that he (P.W. 37) did not inform the petitioner about the canvassing by the Village Munsif in the company of the election agent of the 1st respondent (Ramadas). He explains that the petitioner just stepped into the booth and then went away quickly. It is not safe to rely on the evidence of this witness. No R.W. was examined on this item.

100. Item 28 (Vayalur)—P.Ws. 32 and 50:—P.W. 32 is a vannia Perladanakarar of Vayalur. P.W. 50 is a Harijan of Vayalur. P.W. 32 speaks as follows:—The Village Munsif of Sembalukurichi and 1st respondent came to P.W. 32, about 10 days prior to election and asked him to give his vote to the 1st respondent. (They also saw other villages.) The Village Munsif (Kuppuswami Padayachi) also promised to get repairs of tanks and channels done in the village. P.W. 32 then gave his word, that all the villagers (caste ryots) would vote for the 1st respondent. Two days prior to the election the Village Munsif of Sembalukurichi, the karnam of Sembalukurichi as well as the Village Munsif and Karnam of the local village of Vayalur again came to the village and told the people including P.W. 32, that all padayachis should vote for the 1st respondent. They took P.W. 32 to the Cheri and canvassed. P.W. 32 told those Harijans that the Padayachis were going to vote for the 1st respondent. Then the Harijans agreed. The Village Munsif of Sembalukurichi called P.W. 32 to go to the former's village. But P.W. 32 declined. P.W. 50 corroborates the version of P.W. 32. The version of these witnesses is consistent.

101. P.W. 32 admits that he worked for Congress in the District Board Elections but he says that he did not work in the last election. Vayalur is a village where petitioner's father owns a considerable extent of land (about 30 acres) and cultivates it through farm servants. The petitioner's father is also a Perladanakar for his community in the village just as P.W. 32 is for the Vannia Community. P.W. 50 says that the village munsif is the only Karkatha Vellala Pillai in his village which means that petitioner's father was Perladanakar only for his family and for the village Munsif. P.W. 32 did not tell the facts to the Petitioner's father as he did not meet the latter. But he told petitioner's gumastha, Ramaswami when he came and canvassed for petitioner. 1st respondent as R.W. 15 says that he did not go canvassing with village munsif of Sembalukurichi etc. There is no other rebuttal evidence. 1st respondent cited and summoned village Munsif and karnam of Sembalakkurichi but did not examine them. We believe the evidence of the P.W. 32 and P.W. 50 in preference to that of 1st respondent. We believe the village Munsif and Karnam of Sembalukurichi and Village Munsif and Karnam of Vayalur canvassed votes for 1st respondent that the Village Munsif of Sembalukurichi did such canvassing in the company of the 1st respondent and that 1st respondent procured his assistance for furthering the prospects of his election. We find as follows:—(I) that the Government village officials procured votes for the 1st respondent at the places in schedule F which are mentioned below:— Item 1 at Sembalukurichi—The village Munsif and Karnam of Sembalakkurichi. Item 28—The Village Munsif and Karnam of Sembalukurichi and Village Munsif and Karnam of Vayalur procured votes for the 1st respondent. We also find that the 1st respondent procured the assistance of the Government Village Munsif of Sembalukurichi for the furtherance of this prospects of his election. We find that there is no satisfactory proof regarding the other items in Schedule F.

102. Issues 2 and 3.—The vannias are the most populous single community in the constituency. For the advancement of their communal interests, they have a Sangam called the Vanniakula Kshatriya Sangam which has been existing from a long time back. There was a provincial V. K. Sangam. There was a District Sangam at Cuddalore. The President of the latter in S. S. Ramasami Padayachi. The President of the Taluk V. K. Sangam at Vriddachalam was Rajavelu who was also the President of the Panchayat Board, Vriddachalam. Another important member of the V. K. Sangam (District and Provincial) is the 2nd respondent. Originally, the Vannias were working with the Congress and inside the Congress for their political purposes. But when the District Board Elections came in 1949, the V. K. Sangam adopted a policy of setting up its own members in its name and opposing the Congress candidates. It came out very successful by this method (capturing 32 or 33 seats out of a total of 52 seats.)

103. With the passing of the Representation of People Act on 18th July 1951, with a general election in prospect, it became clear that no appeal to the electors

could be made on grounds of caste and community. On 22nd September 1951, the Executive Committee of the South Arcot District Vanniyakula Kshatriya Sangam decided as follows:— "As Vannias are toilers, in the interests of their welfare and also of the welfare of similar communities which consist of toilers, it is resolved to start a Tamil Nad Toilers Party and to put up candidates in the forthcoming elections under the auspices of that party". This resolution is found extracted in Ex. A-34 which bears the title of "T. N. T. Party notice." It is issued by the Gingee Taluk Vanniyakula Kshatriya Sangam. Petitioner says that he was present (by chance) at the meeting held on 6th October 1951, at Muthia Talkies at which the Tamil Nad Toilers Party was born. The South Arcot District Vanniyakula Kshatriya Sangam, by its Secretary P. G. Narayanasami Padayachi, issued a notice to the voters of Gingee Taluk on 5th December 1951, referring to the resolution of 22nd September 1951, about the Vanniyakula Kshatriya Sangam supporting the Tamil Nad Toilers Party.

104. There was a paper "Kshatriyan" edited by Vadivelu Bhoopathi (P.W. 56). He says that it was being run for the benefit and uplift of Vannias. Exs. A-1 to A-10 are issues of this paper of dates from 27th July 1951 to 28th December 1951. P.W. 56 appears to have been supporting that Sangam and also getting financial assistance from S. S. Ramasami (President of Vanniyakula Kshatriya Sangam). But after the resolution, dated 22nd September 1951, deciding to form a Tamil Nad Toilers Party, for the benefit of other backward communities and not merely for the Vannia Community, P.W. 56 ceased to see eye to eye with S. S. Ramasami. In the beginning, P.W. 56 supported the Tamil Nad Toilers Party and asked the Vannias to vote for it. Later, he condemned the policy of S. S. Ramasami for having departed from his communal principles. P.W. 56 wrote in his paper asking the Vannias not to vote for the Tamil Nad Toilers Party. S. S. Ramasami stopped his financial assistance to the paper and the latter ceased publication. P.W. 56 also disapproved of the policy of the Tamil Nad Toilers Party in allying itself with organisations like the Dravida Kazhagam and Dravida Munnetra Kazhagam with a view to oppose Congress, and he expressed himself in no uncertain terms in his last publication Ex. A-10.

105. Ex. A-6(a) is a notice issued by S. S. Ramasami calling for applications for being taken as candidates on behalf of the Tamil Nad Toilers Party. It mentions that the Scheduled Caste people need pay only Rs. 10 along with the application, whereas others should pay Rs. 50. In response to the call, the 2nd respondent, who was connected with the District and Provincial Vanniyakula Kshatriya Sangam, applied. Rajavelu who was President of the Taluk Vanniyakula Kshatriya Sangam at Vriddachalam also wanted to apply for election. He consulted his friend P.W. 11 (who was member of the Panchayat Board, Vriddachalam, of which Rajavelu was Chairman). P.W. 11 pointed out that Rajavelu could not stand for election as he was Highways contractor. Rajavelu then said that he would set up some other man as candidate. He set up 1st respondent.

106. Paramasivam (1st respondent) was then away from the District altogether. He hailed from the village of Edacheruvai in which the joint family of himself and his elder brother Seetharama Padayachi owned properties and trustee-right in a private temple. He was studying in the F. L. class in Madras Law College and came to the district and applied. He was selected. His election agent is Ramados of Alachikudi.

107. In the petition, it is stated that the same V. K. Sangam styled itself as Dravida Kazhagam and Dravida Munnetra Kazhagam. But petitioner himself admits that these Kazhagams were distinct from Vanniyakula Kshatriya Sangam. The petitioner sticks to his statement in the petition that the Tamil Nad Toilers Party is the Vanniyakula Kshatriya Sangam and was merely a new name taken by an old organisation as an adoption to new circumstances arising from the passing of the R. P. Act whereby election propaganda on communal lines was made illegal.

108. Several witnesses say that the paper "Kshatriyan" was the organ of the Vanniyakula Kshatriya Sangam. We are not concerned whether it was so before the Tamil Nad Toilers Party was formed. The learned Advocate for the petitioner has drawn our attention to several passages in Exs. A-1 to A-10 which are of the nature of undisguised and strong communal propaganda. e.g. in page 2 of Ex. A-9, P.W. 56 says that the Vannia voters should carefully put their ballot papers only into a box belonging to a Vannia. But the propaganda in this paper by P.W. 56 was not all in favour of the 1st respondent or of the Tamil Nad Toilers Party. For example, in Ex. A-7 he says as follows:— "Candidates of our Sangam stand, some on behalf of the Congress, many on behalf of the Tamil Nad Toilers Party and some as Independents. The duty of the members of our community is to vote for the real toilers, irrespective of the party on whose behalf they stand (men

who worked for our community). He also mentions that the Provincial Vanniyakula Kshatriya Sangam had started a Tamil Nad Toilers' party and was working with intensive vigour. If this direction in page 2 of Ex. A-9 were followed, the Vannia voters of Vriddachalam Constituency were free to vote either for the 1st respondent or for the 2nd respondent. In other constituencies where Vannias were standing as Congress candidates, the appeal might be taken as even to vote for a Vannia Congress candidate as against a non-vannia Tamil Nad Toilers' Party candidate (if any).

109. In Ex. A-10, there is a passage as follows with a title "T. N. T. Party's misconduct":—"Kshatriyas: Ours is a community striving for advancement of the community and religion * * *". The Editor of Kshatriyan and I have been writing articles supporting the Tamil Nad Toilers' party which was taken on by the South Arcot District Vanniyakula Kshatriya Sangam. Now, the President of that Party (S. S. Ramasami) has, with a view to secure Victory for his party, discarded the community and communal principles and sought the help of Dravida Kazhagam * * *. This item of propaganda certainly could not have been aimed at improving the chances (in election) of the Tamil Nad Toiler's Party or its candidate (1st respondent.) In effect, the paper "Kshatriyan" cannot be said to have done any net benefit to the 1st respondent by way of propaganda. The 1st respondent cannot be held responsible for this publication any more than can a Vannia Congress candidate or a Vannia Independent like the 2nd respondent.

110. Pamphlets.—Schedule B-2—Ex. A-11 (Item 5).—This is a pamphlet issued by the Dravida Munnetra Kazhagam, Tirupapuliyur entitled "The Cock Crows". This in rather bombastic language, describes the Tamil Nad Toilers Party as laying the foundation for the grave of the Congress in the South Arcot District area and S. S. Ramaswami and his people as leaders in a heroic cause. But it also says that the people of the Tamil Nad Toilers Party were thinking of the people of South Arcot District, as members of their own families. It does not contain any appeal on the basis of community.

111. Ex-A-12 (Item 6).—This is a pamphlet purporting to be issued by one Ponni Memorial Reading Room of Cuddalore saying that their vote was only for the Cock Box. It starts with a question "To whom is your vote?" and ends with an answer to the effect that vote is for the Cock Box, to the heroes of T.N.T. Party who showed the way to drive famine and starvation from the country. There is no communal appeal. There is some room for the learned Advocate's argument that the contents of the notices are worded in strong language. But really it does not seem to have any appeal on grounds of caste or community.

112. Exs. A-37 and A-36—(Items 7 and 1).—Ex. A-37 has already been referred to by us under issue 7.

113. Ex. A-38—This is an appeal issued by the South Arcot Dravida Munnetra Kazhagam. R.W. 14, who is the Secretary of that Sangam says that he issued this. This pamphlet also does not contain any appeal on the ground of caste, community or religion, though the language appears to be somewhat of an extreme type.

114. Ex. A-39 (Item 11).—This is a pamphlet issued by the Communist Party. In this also, there is some allegation in strong language about what had been done by the Congress. But, there is no appeal on communal grounds.

115. Ex. A-40 (Item 12).—This is a notice issued by the 1st respondent himself with his picture in it. It does not contain any objectionable propaganda.

116. The other pamphlets mentioned in Schedule B-2 also do not contain any appeal on grounds of caste, community or religion such as is contemplated in Section 124(5). Some of the pamphlets referred to above contain language that cannot be strictly called mild or sober. But, that does not furnish sufficient ground to vitiate the election.

117. Some of the witnesses have mentioned that the 1st respondent and several of his workers made appeal on communal grounds at various propaganda meetings. But, the petition does not give any details of such meetings, with the place or time or speakers etc. There is no schedule regarding any such meetings. Consequently, we find that nothing can be made out of the evidence of such meetings. It is not fair to allow the petitioner to draw any conclusions about such items about which particulars have not been given in the petition as required under Section 33(2) of the R.P. Act.

118. With a view to prove the connection of V. K. Sangam with T. N. T. party, the learned Advocate for the petitioner summoned Mr. S. S. Ramasami the President of those two organisations to produce the bit notices issued by him as President of those two organisations and also minutes book and account books of these two

organisations. S. S. Ramasami sent a letter dated 10-2-1953 (Ex. A. 67) saying that he was unable to attend the Court on 11-2-1953 and asking for an adjournment. The case was accordingly adjourned for his evidence. On the subsequent date of hearing, he sent an affidavit Ex. A. 68, affirming that he was not in possession of any of the records summoned, as no minutes book or accounts were maintained and as no bit notices were preserved. He also filed another affidavit (Ex. A-69) that he did not have office copies of bit notices dated 23-9-1951 and 12-10-1951. The learned advocate for the petitioner contends that these two affidavits cannot be believed in view of the following facts:—

(a) In the letter dated 10-2-1953 Ex. A.67, S. S. Ramasami has not said that no accounts or minutes books were maintained and that no notices were preserved. He asked for an adjournment. If really no such books or accounts were maintained, he could have straightaway reported that fact on 10-2-1953.

(b) The accounts of the 1st respondent contain a bill Ex. A-120 with rubber stamp of T. N. T. Party (Muthia Talkies, Cuddalore N. T.) for a sum of Rs. 102/8/0 being the amount due on account of purchase from the T. N. T. Office of posters, badges and writing slips and that a sum of Rs. 10. was still outstanding. It is difficult to believe that the affairs of such a big party which ran elections of several candidates in many constituencies could have managed without keeping accounts.

(c) It appears from the evidence of the Editor of Kshatriyan, P.W. 56, that considerable funds were being given by S. S. Ramasami to the paper as subsidy. Ex. A-13 is a bill for Rs. 38 issued by the Mitra Press (of which P.W. 2 is the proprietor) for printing of pamphlet Ex. A-11 etc. This is addressed to A. Govindaraju Padayachi, who was a close relative of S. S. Ramasami. P.W. 2 said that this Govindaraju was an election manager of the T. N. T. Party, but later admitted that he did not know what position Govindaraju occupied in the T. N. T. Party.

119. Mr. Jayarama Ayyar contends that the affidavits Exs. A-68 and A-69 of S. S. Ramasami are disingenuous, that accounts and minutes books should certainly exist and have been suppressed by S. S. Ramasami. He wants us to draw an adverse inference (from the non-production) to the effect that, if produced, they would not support the case of the 1st respondent about the T. N. T. Party being not identical or closely connected with the V. K. Sangam. There seems to be some force in this contention.

120. The V. K. Sangam, though it might have had the ultimate object of dealing with cultural and economic uplift, is by its very name based on Vanniakulam i.e., a community or sub-caste. On the other hand, the T. N. T. Party is, by its very name and description based on the concept of toilers, i.e., mode of living, not community, caste or religion.

121. The creation of a new party and the adoption of a non-communal (Non-caste) name shows a conscious effort to conform with the law. The notices, etc., used during the propaganda for the 1st respondent, described the 1st respondent as standing for the T. N. T. Party and not as standing on behalf of the V. K. Sangam.

122. In the selection of candidates, so far as this Vriddachalam Constituency is concerned the 1st respondent who was a young man studying in Law College, with very little past connection with the V. K. Sangam, was preferred to a man like the 2nd respondent who was member of the South Arcot District V. K. Sangam and Provincial V. K. Sangam.

123. Candidates for the T. N. T. Party were not selected from Vannias alone. For the Reserved seats, Harijans were selected and put up by this Party. Of course, they could not have put up Vannias for those Reserved Seats. But, in any case, the selection and support to Harijan candidates for the Reserved seats, shows that the Party's interests did not stop at the narrow bounds of a Vannia sub-caste and that it extended beyond to the Harijans who were certainly backward. The T. N. T. Party also put up during the last election (with success) one Muthukumarasami Naidu (a non-vannia caste-Hindu) for Thirukkottur Constituency which contained plenty of Vannias. P.W. 10 explains that this was done as a matter of policy and clever tactics by S. S. Ramasami with a view to get for the latter, the votes of people who were under the influence of Muthukumarasami Naidu in Cuddalore Constituency. Whatever were the reasons for putting up these non-vannia candidates, the fact still remains that the T. N. T. Party did select and support non-vannia candidates. The resolution dated 22-9-1951, published in Ex. A-8 says that the T. N. T. Party proclaimed that it existed for the benefit of other backward classes also besides Vannias and also called for application without restricting them to Vannias. In particular, it gives a special concession in the

matter of admission fees to applicants of Depressed Classes who wanted to be candidates. So we find as follows:—

124.—*Issue No. 2.*—No systematic appeal to vote on grounds of community for the furtherance of prospect of 1st respondent's election as alleged in para 6 of the petition has been proved by the petitioner.

125.—*Issue No. 3.*—No threat of economic boycott to the Harijan community such as alleged in paragraph 7 of the petition has been proved. The election is not proved to have been not a free election on any ground contained in paragraph 7 of the petition.

126. *Issue No. 8.*—In para 25 of the petition, the petitioner has alleged that respondent's return of election expenses is not exhaustive and that he has suppressed many items of expenditure incurred and that from the meagre accounts given, it is evident that he has treated voters on the day of election and paid the charges subsequent to election. Treating voters has been discussed by us under issue No. 4 with reference to details given in schedule C-1. We have found that the specific instances shown in that schedule were not proved. Petitioner gave notice (Ex. A-107) to the 1st respondent to produce all the original accounts maintained by him regarding the election. The 1st respondent has not filed those accounts. He says that accounts were maintained by one Krishna Pillai who is employed as a clerk in the private family temple of the 1st respondent and his brother Seetharama Padayachi and that Krishna Pillai knows the details of payments etc. Those books have not been filed into Court and Krishna Pillai has not been examined. Mr. V. Jayarama Ayyar for petitioner wants us to draw from this fact an adverse inference against the 1st respondent to the effect that, if produced, those accounts would not support the case of the 1st respondent and would positively show the payments regarding feeding of voters. In the accounts already actually filed in Court, we have got receipts from various hotel keepers for moneys which they have received from the 1st respondent e.g., there is a receipt by Perumal, Proprietor of New Cafe at Thittakudi. It mentions that Rs. 108-10-0 were received for meals supplied till 31st December 1951. Perumal was summoned, but not examined and his accounts were not produced. The receipt is itself dated 5th March 1952. The 1st respondent says that he does not know why Perumal passed a receipt on 5th March 1952, and that he (the 1st respondent) gave instructions to his people that no accounts should be had in any hotels and that no amount should be spent in any hotel after 31st December 1951.

127.—*Ex. A-113* is a receipt issued by one Kannayan Tea Stall, Thittakudi. It is dated 4th January 1952. But it is issued for feeding up to 31st December 1951. It does not mention the date up to which supplies were made [Regarding feeding at New Cafe, there is no evidence at all under item C-1(1).] Mr. V. Jayarama Ayyar suggests that the issue of a receipt on 4th January 1952 must mean that tiffin was supplied even after the date 31st December 1951, mentioned in the receipt. We are not able to accept this contention. The 1st respondent as R.W. 15 says that he does not even know whether a man called Kannayan kept a tea stall at Thittakudi and he cannot say on what dates the tiffin was taken in that man's tea stall. We find it difficult to presume from the non-production of accounts that those accounts must contain entries to show that there was feeding of voters on election duty.

128. *Schedule H.*—This relates to purchase of petrol which is concerned in Schedule C-4 also and was dealt with incidentally under issue 6. The allegation of petitioner regarding purchase of petrol in this schedule is as follows:—

1-1-1952	MDC 514	8 gallon	Bill Ex. A-45	Acct. Entry Ex. A-41 (a)
1-1-1952	MSC 2134	8 gallons	Ex. A-46	Ex. A-44 (b)
	1st respondent's car			
1-1-1952	MDG 911	3 gallons	Ex. A-47	Ex. A-44 (c)
	Car used by 1st respdt.			
2-1-1952	MSC 2520	10 gallons	Ex. A-48	Ex. A-41 (d)
	Bill No. 223.			
2-1-1952	MDG 911	6 gallons	Ex. A-49	Ex. A-44 (e)
2-1-1952	MDC 514	5 gallons	Ex. A-50	Ex. A-44 (f)
2-1-1952	MDC 514	4 gallons	Ex. A-51	Ex. A-44 (g)

The purchase of petrol under bills Exs. A-46 and A-48 is actually shown in the accounts of the 1st respondent (*vide* originals of those bills which are Exs B-15 and B-16 respectively). There is no entry in the accounts of the 1st respondent regarding the other bills.

129. The case of the 1st respondent regarding these vehicles is as follows:—He had nothing to do with MDG-911 at all. Neither he nor any one on his behalf

procured it. That vehicle did not work for him. He used MDC-514 only till the end of 31st December 1951 and not afterwards.

130. As regards the car MDG-911, the description given in the petition is only MDC-911, whereas the evidence on the petitioner's side is that the car used was MDG-911. So, there was a misdescription and discrepancy.

131. Under issue (6), we have discussed about MDC-514 and found that the evidence on the side of 1st respondent was unreliable. P.W. 24 stated that he had personal knowledge of supply of petrol of all the items mentioned in the above table and that Ramadas purchased all that petrol. P.Ws. 38 and 44 depose about the MDC-514 actually transporting voters to the polling booth at Vriddhachalam on 2nd January 1952 by Rajavelu and Ramadas. Their evidence has been dealt with under **issue 6**

132. There are all the details specifically mentioned in paragraph 25 and 26 of the petition as well as schedules C-4 and H. In the course of the evidence, several points relating to the accounts were elicited by Mr. V. Jayarama Iyer though they are not directly concerned in this issue. With reference to them, it is contended that the election return is not correct and full, on the following grounds:—

(i) In the return of expenses, no entry is made about the receipt of money. Form No. 26 is the form for return of election expenses. In it, it is specifically stated under "receipts" as follows:—"Including all moneys * * * received from any person (including the candidate himself) * * *". The 1st respondent says that the money which he spent belonged to the joint family of himself and his brother and was taken from the custody of his brother. There is no room to doubt the statement of the 1st respondent that the money spent was his own. All the same there is a technical defect by failure to show the receipt of the moneys in the return.

(ii) The 1st respondent says that he purchased car MDR-935 two or three days after he was chosen as the T. N. T. Party candidate and that he purchased it for election purposes. He says: "I do not know the exact price for which I purchased MDR-935. It would be over Rs. 2,000/-". Beyond doubt, this car was used for election purposes. Its price is not shown in the return.

(iii) The notice inviting applications for being selected as candidates for the T. N. T. Party (Page 2 of Ex. A-5) suggests that Rs. 50/- must have been paid by the 1st respondent along with his application. (The 1st respondent says that he did not pay. From Ex. A-5 alone it cannot be said for certain that he must have paid.)

(iv) No remuneration is shown in the accounts for the work done by Krishna Pillai as clerk in maintaining the accounts. The 1st respondent's case is that Krishna Pillai was employed as a clerk in the family temple of the 1st respondent of which, the 1st respondent's elder brother Seetharama Padayachi was trustee. In Election Cases by Hammond (at page 364) this matter was discussed and it was held that if employees of a candidate in his capacity otherwise than as a candidate are used for election work, their wages for the period of work should be shown in the return. In this particular case, a proportionate portion of his salary as clerk could and should have been shown in the accounts. But, we consider this purely as a technical defect resulting from the ignorance of the 1st respondent in this matter.

133. These are all technical defects. The actual election expenses as shown in the return by the 1st respondent is Rs. 5271-13-0. It is very much below the maximum limit of Rs. 12000/- prescribed by law and rules. It does not appear from the evidence that if all these defects are taken into account, the total expenditure (taking the return of the 1st respondent as correct, so far as the entries in it go) will rise above the maximum limit of Rs. 12000/-. The learned Advocate for the petitioner has laid great emphasis on the failure of the 1st respondent to file the original accounts into court.

134. So we find as follows.—The return of election expenses is false regarding the following particulars:—Purchase of petrol as alleged in Schedule C (4) and H regarding MDC-514. It is not proved to be false regarding MDG-911. The return is not false regarding other items. (The return is also found to be false regarding some of the items referred to above, which are not covered by this issue.)

135.—**Issue No 15**—In view of our findings on issues 6 and 11 in view of section 100 (2) of the R. P. Act, we find that a case is made out for holding that the election of returned candidate, 1st respondent is void. But, we also find that the evidence on record does not enable us to declare that the petitioner has been duly elected as claimed by him in the petition. Therefore, under Section 98 (b) of the R. P. Act, we declare that the election of the returned candidate, the 1st respondent is void granting relief No. (ii) asked for in the petition.

136. Under Section 99 of the R. P. Act, we find that the following corrupt practices have been proved to have been committed by the 1st respondent at the election--

(i) Hiring and procuring of vehicles by the 1st respondent for conveyance of electors, under Section 123 (6) of the R. P. Act [concerned in items 1 and 2 of C (2) Schedule].

(ii) Procuring by the 1st respondent of the assistance, for the furtherance of the prospects of his election, of Government village Munsif of Sembalakurichi under Section 123 (8) of the R. P. Act.

(iii) Making of return of election expenses which is false in material particulars [as found in issue 8 under Section 124 (4) of the R. P. Act.]

137. No other corrupt or illegal practices have been proved to have been committed.

138. Under section 99 (1) (b) of the R. P. Act, we fix the total amount of costs payable at Rs. 300/- and direct the 1st respondent to pay the costs to the petitioner. The 5th respondent will bear his own costs.

Pronounced in open Court, this the 27th day of April 1953.

(Sd.) H. A. AYYAR, *Chairman.*

(Sd.) L. S. PARTHASARATHI AYYAR, *Member.*

(Sd.) V. C. VIRARACHAVAN, *Member.*

The following witnesses were examined.

FOR PETITIONER:

1. Sri R. Saranatha Ayyengar.
2. Sri Krishnamurthi Naidu.
3. Sri Subramania Pillai.
4. Sri M. G. Ramaswami Chettiar.
5. Sri Gopalakrishnamurthi.
6. Sri Govindarajulu Naidu.
7. Sri Arumugha Padayachi.
8. Sri Muthuswami Naidu.
9. Sri Sriramalu Chettiar.
10. Sri Vaithinatha Mudaliar.
11. Sri Dhandapani Ayyar.
12. Sri Govindasami Pillai.
13. Sri T. S. Venkatesa Iyer.
14. Sri Singarayar.
15. Sri Rathinasabapathy Pillai.
16. Sri Velayutham Pillai.
17. Sri Ramaswami Goundan.
18. Sri Palamalai Pillai.
19. Sri Manickam Pillai.
20. Sri Pancharatham Pillai.
21. Sri Vadivel Pillai.
22. Sri A. T. Ramanathan.
23. Sri Kalyanasundaram Pillai.
24. Sri Jayarama Mudaliar.
25. Sri Aziz Khan (Sub Inspector).
26. Sri Paul Strinivasan (Sub Registrar).
27. Sri Ramaswami Pillai.
28. Sri Ponnuswami Udayar.

29. Sri Ramalingam Pillai.
30. Sri Rangaswami Reddiar.
31. Sri Muthukrishna Reddiar.
32. Sri Ramaswami Padayachi.
33. Sri Sellamuthu Servai.
34. Sri Pavadirayan.
35. Sri Ramaswami Padayachi.
36. Sri Chinnasami Pillai.
37. Sri Narayanaswami Pillai.
38. Sri Manikka Mudaliar.
39. Sri G. V. Subramaniam.
40. Sri Kannan.
41. Sri Samuel.
42. Sri Periaswami Servai.
43. Sri Muthuswami Nalcker.
44. Sri Rajagopal.
45. Sri Subbu Reddy.
46. Sri Ponnuswami Pillai.
47. Sri Ponnuswami Pandarathar.
48. Sri Arumugham Asari.
49. Sri Nallamuthu.
50. Sri Swamikannu.
51. Sri Mottayan.
52. Sri Palanimuthu.
53. Sri Narayanaswami Padayachi.
54. Sri Kasinatha Padayachi.
55. Sri Muthuswami Reddiar.
56. Sri Vadivel Boopathi.
57. Sri K. Narayanaswami Pillai (Petitioner).

FOR RESPONDENT:

1. Sri V. K. C. Natarajan (R. D. O. Tirukoyilur).
2. Sri Subramania Pillai.
3. Sri Ponnaji Mooppanar.
4. Sri Nataraja Kondayar.
5. Sri Subbu Reddiar.
6. Sri Venkatachalam.
7. Sri Thiagarajan.
8. Sri Ramaswami Udayar.
9. Sri Ramaswami.
10. Sri C. Ramaswami Servai.
11. Sri Govindaswami Padayachi.
12. Sri Muthuvel Padayachi.
13. Sri Kattimuthu (5th respondent).
14. Sri Munuswami.
15. Sri N. Paramesivam (1st respondent)

The following Exhibits were Filed:—

FOR PETITIONER :—

Ex. A-1/27-7-1951	Issue of Tamil weekly journal (Kshathiriyam) dated 27-7-1951.
A1(a)	Portion marked in page 1 of the journal below the title of the paper-portion marked is
A1(b)	Portion marked in the journal page. 2.
A2/16-8-1951	Issue of Tamil weekly journal Kshathiriyam dated 16-8-1951.
A3/21-9-1951	Do. dated 21-9-1951.
A4/28-9-1951	Do. dated 28-9-1951.
A5/5-10-1951	Do. dated 5-10-1951.
A6/5-11-1951	Do. dated 5-11-1951.
A6(a)	Page 6 of Ex-A-6.
A6(a)-(1)	Portion marked in Ex. A-6(a).
A6(b)	The article in page 1 containing among others terms of applying to T. N. T. Party to be included as candidate for election.
A7/12-11-1951	Issue of Tamil weekly journal Kshathiriyam dated 12-11-1951
A8/23-11-1951	Do. dated 23-11-1951.
A8(a)	Page 1 of Ex. A-8.
A9/10-12-1951	Do. dated 10-12-1951.
A10/28-12-1951	Do. dated 28-12-1951.
A10(a)/28-12-1951	Article at page 2 column 1.
A10(b)	Portion marked in page 3.
A11/No date	Printed notice issued by the South Arcot District Dravida Munnerta Kalagam with caption.
A12/	Printed notice issued by "Ponni Memorial Library" of Cuddalore.
A13/28-12-1951	Bill for Rs. 38/0/0 by Mitra Press, Cuddalore N. T. in the name of Sri A. Govindaraj (bill for printing charges for Ex. A-12-11.
A14/19-12-1951	Bill for Rs. 11/8/0 by Mitra Press, Cuddalore N. T. in the name of Ponni Ninaivu Padippakam towards printing charges for Ex. A-12.
A15/8-12-1951	Bill for Rs. 38/- by Mitra Press, Cuddalore in the name of A. Govindaraj for printing 1300 copies of posters.
A16/24-12-1951	Bill for Rs. 36/- by Mitra Press, Cuddalore, in the name of A. Govindaraj for printing notices for D. N. Kazhagam meeting and for printing slips.
A17/28-12-1951	Bill for Rs. 24/- by Mitra Press, Cuddalore in the name of A. Govindaraj for printing Election notices.
A18/28-12-1951	Bill for Rs. 26/- by Mitra Press, Cuddalore in the name of A. Govindaraj for printing Election condition-Booklet 7 pages.
A19/No date	Printed notice for the meeting of Tamil Nad Toiler's Party-Election Advisory Committee meeting to be held on 26-10-1951 at Thittagudi.
A20/20-10-1951	Bill for Rs. 5/- by Sri Murugan Press, Pennadam in the name of Kandasami Vandayar for printing notices (Ex. A-19).
A21/	Printed notice for the meeting of the Election Advisory Committee to be held at Pennadam "Students Home" on 15-12-1951.
A22/13-12-1951	Bill for Rs. 3/8/0 by Sri Murugan Press in the name of Murugesan for printing 500 copies of notices (Ex. A-21).
A23/4-3-1952	Printed notice issued for the 1st anniversary celebration of Manavar Hostel Pennadam on 13-3-1952.
A24/5-3-1952	Bill for Rs. 18/- by Sri Murugan Press, Pennadam in the name of Kandaswami Vandayar for printing Wall Posters and invitations (Exs. A-23 and 25).

A/25/4-3-1952	Printed notice issued by Kandasami Vandayar of Pennadam for a meeting to be held to facilitate the T. N. T. Party M. L. As. and M. P. S.
A26/29-12-1951	Bill No. 9934 for supply of 3 gallons of Petrol for M. D. R. 935 (Kallakurichi Petrol bunk).
A27/2-1-1952	Bill No. 13050 for supply of 2 gallons of petrol for M. D. R. 935 from (Kallakurichi Petrol bunk).
A28/1-1-1952	Bill No. 9992 for supply of 4 gallons of Petrol for M. D. R. 935 from (Kallakurichi Petrol bunk).
A29/25-12-1951 to 28-12-1951	Bill book for petrol bunk of Kallakurichi for sale of Petrol.
A30/December 1950 to 31-3-1952	Day book of star press, Vriddachalam.
A/31	Ledger of star press, Vriddachalam.
A/32	Order book of star press, Vriddachalam.
A33/19-10-1951	Manuscript for notice to be printed by T. N. T. party.
A34/17/10-1951	Printed copy of notice by Tamil Nad Toiler's Party announcing formation of T. N. T. party and the decision of the party to put up candidates to contest Elections.
A35/5-12-1951	Printed Notice issued by General Secretary, Van niakula Kshathiriya Sangam, Cuddalore to Support candidacy of K. Aranganathan.
A36/	Manuscript for Ex. A-35.
A37/	Poster by E. V. R. Dravida Kazhagam.
A38/	Printed notice in Tamil with Caption "issued by South Arcot Dt. D. N. Kalagam.
A38(a)	Portion marked in Ex. A-39.
A38(b)	Portion marked in Ex. A-39.
A39/	Printed notice by Communist Party of Vriddachalam making request to the voters of Vriddachalam Constituency to vote for the 1st respondent and 5th respondent.
A40/	Printed notice by the 1st respondent appealing for support of his candidature.
A41/	Electoral roll of Adamangalam village.
A41(a)	Entry relating to voter Thangavelu.
A42/30-7-1949	Register of deaths of Adhamangalam village, Vriddachalam Taluk for 1949 (Sl. No. 17).
A43/	Printed Electoral roll of the village of Periavadavadi of Vriddachalam Taluk.
A43(a)/	Entries relating to Sl. No. 313.
A43(b)/	Entries relating to Sl. No. 346.
A44/	Rough chitta of Burmah-shell petrol bunk of Vriddachalam from 19-12-1951 to 11-1-1952.
A44(a)/1-1-1952	Entry relating to bill No. 175-Sale of 8 gallons for M.D.C 514.
A44(b)/1-1-1952	Entry relating to bill No. 182-Sale of 8 gallons of Petrol for M.S.C. 2134.
A44(c)/1-1-1952	Entry relating to bill No. 188—Sale of 3 gallons of petrol for M.D.G. 911.
A44(d)/2-1-1952	Entry relating to bill No. 223 for sale of 10 gallons of petrol for M. S. C. 2520.
A44(e)/2-1-1952	Entry relating to bill No. 236 for sales of 6 gallons of petrol for M.D.G. 911.
A44(f)/2-1-1952	Entry relating to bill No. No. 241 for sale of 5 gallons of petrol for M. D. C. 514.
A44(g)/2-1-1952	Entry relating to bill No. 272 for sale of 4 gallons of petrol Petrol (for M. D. C. 514.)
A45/1-1-1952	Bill No. 175 of Burmah-Shell Bunk, Vriddachalam for sale of 80 gallons of petrol for M. D. C. 514.
A46/1-1-1952	Bill No. 182 of Burmah-Shell Petrol Bunk Vriddachalam for sale of 8 gallons of petrol for M. S. C. 2134.

A47/1-1-1952	Bill No. 188 of Burmah Shell Petrol Bunk Vriddachalam for sale of 3 gallons of Petrol for M. D. G. 911.
A48/2-1-1952	Bill No. 223 of Burmah-Shell Petrol Bunk Vriddachalam for sale of 10 gallons of Petrol for M. S. C. 2520.
A49/2-1-1952	Bill No. 236 of Burmah-Shell Petrol Bunk Vriddachalam for sale of 6 gallons M.D.G. 911.
A50/2-1-1952	Bill No. 241 of Burmah-Shell Petrol Bunk Vriddachalam for sale of 5 gallons of petrol for M. D. C. 514.
A50(a)/2-1-1952	Initials in ink of Sub-Inspector of Police Vriddachalam (P.W. 25).
A51/2-1-1952	Bill No. 272 of Burmah-Shell Petrol Bunk Vriddachalam for sale of 4 gallons of Petrol for M.D.C. 514.
A51(a)2-1-1952	Initials in ink of the Sub-Inspector of Police Vriddachalam (P.W. 25).
A52/2-1-1952	Petition presented by Petitioner Sri K. Narayanaswami Pillai to Station House Officer, Vriddachalam.
A52(a)/2-1-1952	Endorsement by Sub-Inspector of Police, Vriddachalam (P.W. 25).
A53(2-1-1952-13 hours)	Entry in General Diary of Vriddachalam Police Station regarding petition Ex. A-52.
A54/2-1-1952	Petition presented to Station House Officer Vriddachalam (P. W. 25) by petitioner K. Narayanaswami Pillai.
A55/15-11-1951	True copy of deed of agreement relating to Isum right executed by Adimoolam to Kattimuthu (5th respondent).
A56/15-11-1951	Receipt No. 869639 of S. R. O. Vriddachalam with requisition to deliver document to Kattimuthu and receipt of the document Kattimuthu (5th respondent).
A57/18-12-1951	Receipt for payment of Rs. 26/0/0 as deficit duty and penalty for document (Ex. A-55) paid by Kattimuthu.
A58/25-12-1951	True copy of cancellation deed of the agreement (Ex. A-55) by Ahimoolam.
A/59	Printed List of Candidates and their agents.
A60/2-1-1952	Telegram received from Revenue Divisional Officer, Tirukkoyilur.
A61/2-1-1952	Cover containing tendered votes and form in Chinnavadavadi P.S.
A62/2-1-1952	Challenged vote form of Adamangalam Polling Station.
A63/28-3-1953	Form No. 16 showing the return of Election and Declaration of result of Election of Vriddachalam Constituency—sent by Returning Officer to the Chief Electoral Officer, Madras.
A64/2-1-1952	Copy of telegram sent by Petitioner to R. D. O. Tirukkoyilur about not opening of P. S. No. 198 and asking for Extension of time.
A65/2-1-1952	Copy of telegram sent by R. D. O. to Presiding Officer of Vriddachalam, Tiruvattathurai, Pennadam about telegram of Petitioner.
A66/2-1-1952	Form No. 10—Ballot paper account of Chinnabadavadi P. S. N. 142 Booth No. 1.
A67/10-2-1953	Letter by Sri S. S. Ramaswami Padayachi of Cuddalore (witness summoned by petitioner) to the Tribunal requesting to adjourn the hearing to some other date.
A68/13-2-1953	Affidavit by Sri S. S. Ramaswami Padayachi Leader of T. N. T. Party in Madras Legislative Assembly (stating that he has not preserved any notice, etc.)
A69/13-2-1953	Affidavit filed by Sri S. S. Ramaswami Padayachi.
A70/2-1-1952	Ballot paper account in form No. 10 of Polling Station No. 130.
A71/2-1-1952	Do. Do. of booth No. 2 of Polling Station No. 163.

A72/2-1-1952	.	.	Ballot paper account in Form No. 10 of booth I and II of Polling Station No. 163.
A73/2-1-1952	.	.	Do. Do. P. S. No. 173.
A74/2-1-1952	.	.	Do. Do. of P. S. No. 174 Booth No. II.
A75/2-1-1952	.	.	Do. of P. S. No. 208 (Kilimangalam).
A76/18-1-1952	.	.	Account of form No. 14 prepared by Returnin; Officer (of Sri Kattimuthu, Sri Krishnan Sri Krishnaswami Rao, Sri Lakshmanan, Sri Narayanaswami, Pillai and Sri Paramasivam Suthari and Vadamanickkam).
A77/18-12-1-1952	.	.	Form No. 15 account relating to Sri N. Paramasivam.
A78/18-1-1952	.	.	Do. Do. Sri K. Narayanasami Pillai.
A79/18-1-1952	.	.	Do. Do. Sri Krishnasami Rao.
A80/18-1-1952	.	.	Do. Do. of Sri Suthari.
A81/18-1-1952	.	.	Do. Do. of Sri Kattimuthu.
A82/18-1-1952	.	.	Do. Do. of Sri Vedamanickkam.
A83/83(a) 83(b)	.	.	Do. Do. of Sri Krishnan, Kadirvalu Padayachi and Lakshmanan respectively.
A84/13-5-1952	.	.	Copy of Office memorandum No. 973/52-2 dated 13-5-1952 by the Public (Elections) Department Fort St. George calling upon the Returning Officer Tirukkoyilur to explain his action in counting as valid parliamentary ballot papers found in Assembly boxes in Tirukkoyilur constituency.
A85/28-1-1952	.	.	Application by Petitioner to the Chief Electoral Officer Madras for copy of form No. 16 of Vriddachalam Constituency.
A85(a)/30-1-1952	.	.	Endorsement made by the Office (Public Election V) Department stating that the form has not been received from Returning Officer.
A86/24-2-1952	.	.	Letter from the Petitioner to the Chief Electoral Officer reminding for copy of form No. 16 already applied for.
A86(a)/6-3-52	.	.	Endorsement by the office of the Chief Electoral Officer stating that the return has not been received and that the Returning Officer had been telegraphically reminded.
A87/24-11-1952	.	.	Comparative statement prepared by Petitioner's Advocate with reference to the figures furnished in form Nos. 14, 15 and 16 as regards the votes secured.
A88/24-11-1952	.	.	Tabular statement showing the votes in each Booth and the number of votes secured by each of the candidates and the total number of votes rejected.
A89/18-12-1951	.	.	Form No. 6—appointment form of Polling agent signed by 1st respondent appointing P. Chinnasamai Udayar as polling agent at Kaludur Polling Station.
A90/20-12-1951	.	.	Form No. 6—appointment of R. W. 10 as polling agent of the 1st respondent at Kaludur Polling Station.
A91/19-11-1951	.	.	Nomination filed by the 1st respondent (seconded by R. W. 10).
A92/21-12-1951	.	.	Form No. 6—appointment of R. W. 11 as polling agent of 1st respondent at P. S. Adamangalam.
A93/20-11-1951	.	.	Nomination put in by 5th respondent proposed by Saubbarayam.
A94/22-12-1952	.	.	Notice by Petitioner to the 5th respondent to produce documents.
A95/4-2-1953	.	.	Reply affidavit of 5th respondent.
A96/24-12-1951	.	.	Form No. 6: appointment of R. W. 14 as Polling agent of the 1st respondent at Vriddachalam.
A97/20-11-1951	.	.	Nomination put in by the 5th respondent—seconded by R. W. 14 (rejected).

A98/18-12-1951	Form No. 16—appointment of Polling agent by the 1st respondent of S. Sellamuthu Goundan for P. S. No. 160.
A99/24-12-1951	Form No. 16—appointment of polling agent by the 1st respondent of Rajavelu for P. S. No. 160.
A100/19-11-1951	Form of nomination filed by the 1st respondent proposed by Sellamuthu Goundan and seconded by Balsami Padayachi.
A101/19-11-1951	Form of nomination filed by the 1st respondent proposed by Rajavelu Padayachi and seconded by Kandasami Vandyar.
A102/9-2-1953	Article in the issue of porval) dated 9-2-1952 containing a list of members of Parliament and members of Legislative Assembly, Madras who came out successful at Elections after signing the pledge with D. M. Kazhagam (Respondent No. : 1 is No. : 10 in the list).
A103/20-12-1951	Form No. 6—appointment of Polling agent by the 1st respondent of Chakrapani as Polling agent of 1st respondent at Vadakarampundy Polling Station.
A104/20-12-1951	Form No. 6.—appointment of Polling agent by 1st respondent of S. Veerasami Padayachi for Polling Station No. 159.
A105/24-12-1951	Form No 6.—appointment of polling agent by 1st respondent of Srinivasa Padayachi for Polling Station at Karuveppilankurichi.
A106/14-3-1952	Statement of Election Expenses furnished to the Returning Officer by the 1st respondent.
A107/19-1-1953	Notice given by advocate for Petitioner to the Advocate for 1st respondent to produce accounts.
A108/No. date	Receipt by Ahamadulla for receipt of Rs. 50/- being wage for driving car M. D. R. 935 from 1-12-1951 to 2-1-1952.
A109/3-1-1952	Receipt for Rs. 150/- by Syed Karim to the 1st respondent towards wages and batta for driving car No. M. S. C. 2520 from 17-11-1951 to 31-12-1951.
A110/29-12-1951	Receipt for Rs. 40/- passed by Raju Padayachi to 1st respondent for travelling and other expenses incurred by him from 5-12-1951 to 28-12-1951.
A111/No. date	Receipt by Balaraman of Cycle shop, Thiagadurgam to 1st respondent for Rs. 24/- towards hire charges for 4 cycles from 22-12-1951 to 31-12-1951.
A112/No date	Receipt by Kandoji Rao Tea shop, Thagadurgam to 1st respondent for Rs. 27/8/0 towards meals and tiffin supplied from 13-12-1951 to 31-12-1951.
A113/4-1-1952	Receipt for Rs. 36/2/0 passed by R. Kayyannayan Tea Stall Keeper Tittagudi to 1st respondent for supply to Election office of the 1st respondent at Tittagudi of meals etc., at Thittagudi.
A114/23-12-1951	Receipt for Rs. 65/- by C. Ramalingam to 1st respondent towards charges for himself and 4 others to visiting voters in Thiagadurgam Firka for car cycle meals, etc., for days.
A115/31-12-1951	Receipt for Rs. 240/- by Govindasami Padayachi, Driver of Car M. S. C. 2134 towards remuneration for service rendered.
A116/	Receipt for Rs. 420/- by Md. Ibrahim to C. Ramalingam towards charges for M. D. N. 36—Receipt is styled as by Karuppiyah.
A117/3-1-1952	Receipt by T. P. Narayanaswami to Ramalingam for Rs. 55/- for hire of car M. D. C. 514 from 28-12-1951 to 30-12-1951.]
A118/3-1-1952	Receipt for Rs. 32/- by Murugan of Thittagudi to 1st respondent towards wages for 32 days in connection with distributing notices affixing wall posters etc., in villages in Tittagudi Firka.

A119/	.	.	.	Wall poster by T. N. T. Party appealing to voters of Vriddachalam constituency to cast their votes to the 1st respondent and 5th respondent (printed at Rathiana Press, Ariyalur-charges paid by the 1st respondent).
A/120	.	.	.	Voucher by T. N. T. Party for supply of wall posters, etc., showing bill for Rs. 102/8/0 and receipt of Rs. 92/8/0 and a balance of Rs. 10/- out standing.
A121/23-12-1951.	.	.	.	Receipt for Rs. 62/- by Star Press, Vriddachalam to Sengalvarayan towards printing charges of notice, etc., (D. M. Kalagam notices included).
A122/1-1-1952	.	.	.	Receipt for Rs. 102/4/0 by Star Press, Vriddachalam to G. Ramadass (Election agent of the 1st respondent for printing notices, etc. (D. N. Kalagam notices included).
A123/20-12-1951.	.	.	.	Form No. 6—appointment of Polling agent of S. Ramalnathan by the 1st respondent for Chinnavadavadi Polling Station.
A124/21-12-1951.	.	.	.	Form No. 6—appointing as Polling agent by 1st respondent of Chinnakannu Padayachi for Adhamangalam Polling Station.
A125/20-12-1951.	.	.	.	Form No. 6—appointing as Polling agent by 1st respondent of Chinnaswami Goundar for Veppur Polling station.
A126/19-12-1951.	.	.	.	Form No. 6 appointing as polling agent of Narimuthu Padayachi for Tholudur Polling Station.
A127/25-12-1951.	.	.	.	Form No. 6—appointing as polling agent of Seetharama Padayachi by 1st respondent for Edacheruvai Polling Station.
A128/11-6-1952	.	.	.	Certified copy of Vakalat filed by Sri S. Rangarajan for 1st respondent in O. S. 104/51, Vriddachalam District Munsif Court.
A129/	.	.	.	Marked copy of Electoral roll Perivadavadi, P. S. No 185.
A130/	.	.	.	Marked copy of Electrol roll Athamangalam P. S. No. 142.

FOR RESPONDENT

B1/3-1952	.	.	.	Office copy of report sent by P. W. 39 to R. D. O. Tirukkoyilur.
B2/23-1-1952	.	.	.	Office copy of letter by R. D. O. Tirukkoyilur to the Collector of South Arcot.
B3/1951	.	.	.	Printed copy of General Election Manifesto by T. N. T. Party.
B4/11-11-1951	.	.	.	Copy of letter by the Tahsildar of Vriddachalam to the Revenue Divisional Officer, Tirukkoyilur.
B5/9-1-1952	.	.	.	Post copy of Telegram by Election Commission to R. D. O. Tirukkoyilur.
B6/2-1-1952	.	.	.	Copy of telegram sent by the R. D. O. (R.W.1) to Presiding Officer of Polling Station No. 198.
B7/13-11-1951	.	.	.	Letter of Resignation of Post of Talayari sent by Kattimuthu (5th respondent) to Tahsildar Vriddachalam.
B7(a)13-11-1951	.	.	.	Statement of 5th respondent recorded by Tahsildar on the back of B-7.
B8/13-11-1951	.	.	.	Petition by Kattimuthu (5th respondent) to the Tahsildar Vriddachalam to appoint Subbarayan as Isum Talayari.
B8(a)13-11-1951	.	.	.	Statement of Kattimuthu (5th respondent) recorded by Tahsildar on back of B-8.
B9/13-11-1951	.	.	.	Statement of Subbarayan before Tahsildar Vriddachalam consenting to serve as Talayari.
B10/14-11-1951	.	.	.	Letter from Tahsildar Vriddachalam to R. D. O. Tirukkoyilur.
B11/19-11-1951	.	.	.	Proceedings of R. D. O. Tirukkoyilur accepting the resignation of the 5th respondent and appointing Subbarayan as Deputy.

BI2/29-12-1951	.	.	Bill No. 9934 of Petrol Bunk at Kallakurichi for supply of 3 gallons of Petrol for M. D. R. 935 (original of Ex. A-26).
BI3/2-1-1952	.	.	Bill No. 13050 of Petrol Bunk at Kallakurichi for supply of 4 gallons of petrol for M. D. R. 935 (Original of Ex. A-27).
BI4/1-1-1952	.	.	Bill No. 9992 of Petrol Bunk, Kallakurichi for purchase of 4 gallons of petrol for M. D. R. 935, (Original of Ex. A-23).
BI5/1-1-1952	.	.	Bill No. 182 of Petrol Bunk, Vriddachalam for purchase of 8 gallons of Petrol for M. S. C. 2134.
BI6/2-1-1952	.	.	Bill No. 223 of Petrol Bunk, Vriddachalam for purchase of 10 gallons of Petrol for M. S. C. 2520.

(Sd.) H. A. AYYAR, *Chairman*.

(Sd.) L. S. PARTHASARATHY IYER, *Member*.

(Sd.) V. C. VIRARAGHAVAN, *Member*.

[No. 19/264/52-Elec.III/7387.]

By Order,

P. R. KRISHNAMURTHY, Asstt. Secy.

